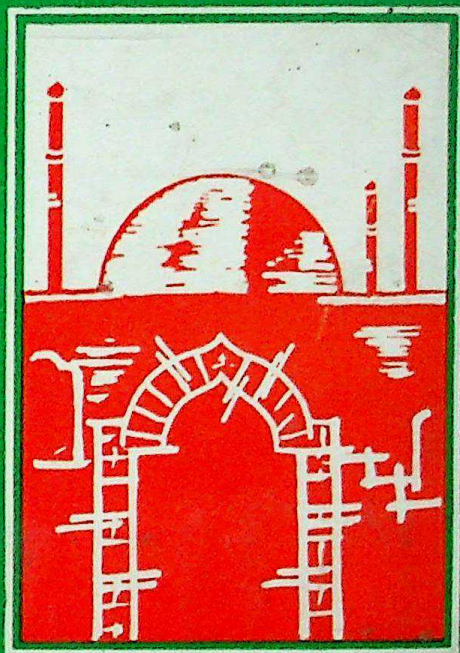




Muslim Politics in India

S.K. GHOSH

This book deals with the politics of Communal Muslim organisations and fundamentalist Muslim leaders dividing the Muslim community along religious and communal lines. The manipulation of religion and religious idiom reinforces communal identity and solidarity and threatens the unity of the country.

With secularism laid down in the Constitution which the Muslim community's elected representatives unanimously supported and to which they swore allegiance, the evil of communal politics was expected to disappear gradually, if not instantly. The facts today, however, present a different picture.

Is it central to the interest of the Muslims to engage in cow slaughter and resort to riots every-time a procession with a band passes outside a mosque even beyond prayer hours? How are they going to be benefited by hurting the sentiments of the majority community? Are they interested in increasing their population by unlawful mass conversion and illegal infiltration, refusal to give up polygamy and to adopt family planning and birth control?

What is necessary is the development of a sturdy national ethos which can combat the communal mentality. It is time for Muslim leaders to sit together and consider whether perpetuating confrontation with Hindus is the best way of serving the Indian Muslims' interests.

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PREFACE

The National Congress provided a common platform for all communities to fight for the country's independence. But the Muslim League's two-nation theory fuelled communal politics and finally in 1947 ushered into existence, in the midst of riots and massacres ghastly beyond all telling, the two new States of India and Pakistan.

However, while committing the people of India to secularism, the authors of the Constitution did not take for granted that communalism and all its variants in the Indian polity would *ipso facto* cease to exist. In fact, some members of the Constitution—making body foresaw that the Canker of Communalism would persist unless new India took adequate measures to eliminate it by law. One of its members, Ananthasayanam Ayyangar, moved the following resolution on 8 April, 1948 :

This Assembly is of the opinion that no communal organisation which by its Constitution or by the exercise of its discretionary powers is vested on grounds of religion, race or caste, or any of them, should be permitted to engage in any activities other than those essential for the bonafide and cultural needs of the community.

Intervening in the discussion and supporting the resolution Nehru observed :

We must have it clearly in our minds and in the mind of the country that alliance of religion and politics in the shape of communalism is a most dangerous alliance, and, it yields the most abnormal kind of illegitimate blood.

Accordingly, our Constitution provided for a common civil code, abolition of separate electorates and reservations, etc. Politically, parties like the Muslim League, Jamaat-e-Islami and Majlis-e-Ittahadul Musalmeen should have been eliminated and banned. But this was not done. Instead, they have been encouraged and courted by almost every political party for short term political gain. It is a tragedy of millions of Muslim women and unborn children that the government's "Muslim policy" is motivated by ideology no higher than political expediency.

Judging by the recent events arising out of the nexus between religion and politics, Ayyangar's fears and Nehru's warning on communalism seem to have come true, and communalism has indeed become a pernicious feature of our national life. With secularism laid down in the Constitution, the evil of communal politics was expected to disappear, gradually, if not instantly. The facts today, however, present a different picture. The number, the ferocity and duration of communal riots speak for themselves. They occur more frequently; they claim more lives and property; and they last much longer. Communal bodies are much better organised than before.

A fresh look into the problem of Muslim politics in the country has become overdue. The Indian Union Muslim League (IUML) surely brings to mind unhappy memories of the part played by Jinnah's Muslim League in the bloodshed and massacre and finally in the partition of the country notwithstanding IUML's commitment to secularism. Simply because the party has the prefix "Indian Union" its leadership cannot claim that the name is free from provocative communal associations. It is useful to bear in mind that the factors which led to the partition of India are not dead, and represent a similar constellation of forces even after they opted to become citizens of a non-Islamic State.

Reluctance to have a uniform civil code, and insistence on outdated practice of polygamy; encouraging conversions to Islam with evangelical zeal and opposing enactment of legislation to curb unlawful conversions; encouraging and supporting illegal immigration of Muslims from the neighbouring Muslim countries into India; opposition to family

planning; resorting to riots every time a Hindu procession with music passes outside a mosque; slaughtering cows for the purpose of annoying Hindus are manifestations of activities and policies pursued, based on a persistently communal approach of Muslim interests. More subtly but no less importantly a separatist trait has remained the bane of the Muslim mind although we have it on the authority of a Muslim M.P., that on the midnight stroke of August 15, 1947 all Indian Muslims became Muslim Indians. It is an open question as to how many would know what the difference is.

What do you think of a Muslim MLA from the Andhra Pradesh, publicly suggesting that there should be a separate Muslim State within each State of India. The IUML, in Kerala, has in the past twisted the arms of chief ministers and wrested concessions ranging from the formation of separate Muslim districts, issue of an ordinance to protect Muslim interests in the lucrative timber trade to an allotment of funds towards a pension scheme for a section of mosque employees. The hunt for a cause celebre to attract votes has become a coalition reflex in Kerala. Some months ago, the Marxist virulent attack on Muslim personal law alienated the All India Muslim League (AIML), a Left Front partner, which promptly merged with the larger IUML in the ruling front, thus swelling the legislative strength of the ruling UDF. However, the refusal of Marxist to form political alliance with communal groups was needed badly to acquire the respectability of a principle hitherto absent in coalition politics.

In the days of Nehru the Congress alliance with the IUML in Kerala was justified on the ground that it was a special kind of Muslim party notwithstanding Nehru's warning on alliance of religion and politics before the Constitution-making body. The rush of Muslim political parties that have surfaced since then is an indication of how that initial act of the Congress has vitiated Indian politics.

The verdict of the Supreme Court awarding maintenance to Shah Bano, a 75-year-old divorced Muslim woman, under section 125 Criminal Procedure Code and directive to Government to enact a uniform civil code caused a stir in the Muslim

community. It has not only caused a confrontation among members of Parliament but the verdict and its implication on the Muslim personal law (Shariat) has led to a rift between conservative Muslim religious and political leaders, who think it is an infringement on the right of the Muslim community, and the radical section which is in favour of emancipation of Muslim women who are at a disadvantage under the Shariat. The All-India Muslim Law Board submitted a memorandum to the Prime Minister expressing their deep resentment against the judgment which they termed as an "infringement on the freedom and conscience" as granted under Article 25 of the Constitution. It demanded that Section 125 Cr.P.C. be amended. On the other side, women's organisations took up cudgels in favour of the verdict. During the debate in the Lok Sabha two Muslim Ministers of State took opposite stands of the issue. One of them spoke irresponsibly, accusing the highest court of the land of "ignorance, prejudice and partiality." There is a breed of men who like Mohammad Khan, the husband of Shah Bano, an advocate who refuses to pay maintenance to his divorced wife but at the same time fights cases in courts for the maintenance of Muslim women under Section 125 Cr.P.C.

Reacting sharply on the minister's speech, V.R. Krishna Iyer, former judge of the Supreme Court, described the minister's outburst as Muslim Communalism finding expression through parliamentary debate. "If Muslim communalism could be so expressed, who knows whether other forces equally communal will not explode with the Pakistan threat and Kashmir issue kept alive" he said. He further said that "if the authority of the Supreme Court can be challenged today, the authority of Parliament could be challenged tomorrow. The casualty will surely be democracy."

Justice D.A. Desai, former judge of the Supreme Court, criticising Muslim leaders for taking up the issue of maintenance and challenging the authority of the Supreme Court to interpret Islamic law said that judges can also interpret the laws. It is not the prerogative of leaders of a particular community. In a secular State like India society provides protection for destitutes under section 125 Cr.P.C. irrespective of religion. He opposed any move to exempt any

community from the purview of section 125. A large number of liberal minded Muslim intelligentsia from all walks of life not only supported the verdict in the Shah Bano case but also demanded enactment of a common civil code applicable to all communities.

Justice P. Jaganmohan Reddy, a retired Judge of the Supreme Court supported the decision of the Supreme Court in the Shah Bano case, and maintained that the maintenance provision for divorced Muslim women beyond the three month *iddat* period did not conflict with Muslim Personal Law.

In Beemapally, near Trivandrum, Sulekha Bibi, a young Muslim woman was charged with adultery and drinking by the Jamaat which set up a Shariat Court and inflicted punishment, to her under the Shariat law, namely flogging 101 times and shaving of her head. Again in Perumathura, near Trivandrum, Shahbanut, a divorced young Muslim woman with two children were removed forcibly from her home on charge of adultery, shaven and beaten by her former husband and Jamaat men till she became unconscious. In several places, processions taken out by Muslim women in support of the Supreme Court verdict and demanding a common civil code were attacked by conservative Muslim mobs. Members of the Muslim Personal Law Board, the Muslim League, the Jamaat-e-Islami and other Muslim communal leaders organised protest days, bandhs and processions in different parts of the country against the verdict of the Supreme Court and in support of the Shariat Law. What is more shameful is that the agitation in Bombay was led by smugglers. These incidents are pointers to the path Muslim politics is taking.

The Shariat has brought untold miseries to Muslim Women. Women are compelled into marriage at adolescence, discarded soon after or after years of menial domestic subjugation, paid no maintenance and stranded penniless. Muslim males turn the Shariat into an adventure in exploitation, going from one marriage to another. Often the man scamps off with his wife's jewellery after setting up a small business with the dowry money she has paid him. Orphanages and childrens' homes, in several States having sizeable Muslim population with inmates fathered by Muslim men

who divorced their wives and whose children are not welcome in the new homes. And because their own mothers are not able to maintain them, many of the children go vagrant.

A portion of the Muslim personal law bitter to Muslim women and perhaps more to non-Muslim women is the so-called "permission" granted to the Muslim male to be "polygamous". Non-Muslim women have criticised this permission for polygamy to a greater degree since the non-Muslim male finds it extremely convenient to convert to Islam overnight, divorce his wife the next morning and get married to his paramour the same afternoon. This criticism is compounded by the not-so-intelligent functioning of the Qazis. Such convenient conversions have been justly and bitterly criticised by non-Muslim women. This is a very commonly used mode by the non-Muslim male to escape the criminal charge of bigamy, as well as enjoy the illegal facility of legally commanding two women to his whims and fancies without going through the due process of divorce and sustaining the expenditure of maintaining the first wife.

To prevent such conversions, the National Committees on the status of women had suggested that a legislation should be enacted providing that if a man changes his religion just to be able to take on another wife then he should not be entitled to property and other benefits that normally go to him under his name and religion. Incidentally, it may be mentioned that a private Bill, known as, *The Prevention of Bigamous Marriages Bill* was introduced in the Lok Sabha on 19 February 1982 but was dropped for want of support from the ruling Congress (I) Party.

Most Muslim countries such as Turkey, Iraq, Iran, Syria, Tunisia, Indonesia and Pakistan have introduced reforms of varying degrees to correct the abuse of polygamy but no legislative measures have been taken so far in India, after the partition, to ameliorate the hardship caused to Muslim women by the institution of polygamy. In democracies where Muslims are in minority they have to follow the law of the land; and where they are in majority the Islamic law is applicable to the minorities.

Government has avoided to enact a common civil code all these years for fear of alienating the Muslim Community; notwithstanding the fact that it has instilled in the Muslims a sense of separate identity and prevented national integration. Conservative Muslims have opposed family planning which is believed to be against the injunctions of Islam. As a result, there is not sufficient identification with the social and cultural streams of the country.

February 25, 1986 will go down as a black day in the history of secular India. The introduction of the Muslim Women (Protection of Rights on Divorce) Bill by Law Minister Ashok Sen in the Lok Sabha, removing the extension of liability of the husband and passing it on to relatives and, in their absence, to the Wakf Board marked the surrender of the government to Muslim fundamentalists. There is bitter disappointment among progressive and liberal Muslims and total disenchantment among Muslim women.

The Bill was described by Danial Latif as being based on a faulty summary of the Supreme Court judgment in the Statement of Objects and Reasons attached to the Bill. Latif also described it as "obnoxious to Islamic Principles, derogatory to human rights, violative of the rights of women and children and also of the rights of the minority community to establish and administer charitable and educational institutions of their choice. It may, if persisted in, involve the political leadership and the country as a whole in increasing difficulties and may founder on the bedrock of our constitution." Latif emphasised that the Bill as drafted is an insult to the traditions of Islamic civilisation.

Much is being made of the claim that the majority of the Muslims are against the Shah Bano judgment. The "eminent Muslims" who signed a memorandum to the Prime Minister seeking amendments to sections 125 and 127 Criminal Procedure Code are "eminent" in the eyes of the government and fundamentalist Muslim leaders who are busy in sowing seeds of yet another partition of the country.

Our investigation has shown that most educated and progressive Muslims are opposed to the Bill; many of them are strongest advocate for reforms in the Muslim Personal Law. Arif Mohammad Khan's resignation has not been in

vain. It proved that not all politicians are self-seekers crowding near the corridors of power. For Khan, it was either the scrapping of the Bill or his office. For the Prime Minister it was a desperate trade-off between convenience and principle. It cannot be denied that the Bill is blatantly communal and had raised communal passions all over the country.

V.R. Krishna Iyer, former judge of the Supreme Court opposed the Bill and said that Section 125 Cr.P.C. is obviously a secular provision designed to salvage all divorced damsels in penurious distress, regardless of religion, from the throes of desperate destitution, which may drive them to prostitution and other survival alternatives. The provision is sustained by Article 15 of the Constitution and applies to all women equally. He said further that the Bill is a sin against the Koran and the constitution of Wakfs. Many Islamic scholars hold that the Koranic command to husband to pay unkeep expenses to divorcees beyond the period of *iddat* is clear. Again Wakfs are religious and charitable trusts by pious Muslims to perform specified holy acts for their spiritual benefit. It will be sacrilege to divert these funds for maintenance of other people's wives. Many Wakf Boards are themselves poor and it is an illusion to make them caretakers of jilted and jettisoned wives. Krishna Iyer has warned that the Bill could be held to be violative of the Constitution as it discriminates between citizens on grounds of religion and sex.

Meanwhile, reports poured in that almost all the State Wakf Boards have no funds to run even their routine programmes like orphanages. The question is : Can the Government allot public money for maintenance of only divorced Muslim women? Moreover, it has been pointed out that Wakf Boards do not cover all areas. For example, in a State like Maharashtra the Wakf Boards exist only in the Marathwada regions. What are the hapless women in areas not covered by Wakf Boards to do?

The Bill was passed, both by Lok Sabha and Rajya Sabha, after marathon debates. Merits and demerits of the Bill apart, what is disturbing is the fact that the Government has shown greater concern for votes even if this implied pleasing the mullahs and obscurantists and taking the country back to the 12th century. If Muslim fundamentalists have

won today can the Sikh demands for revision of Article 25 (2) (b) of the Constitution and for a separate Sikh Personal Law be far behind? The proposed separate Sikh Personal Law has been discussed in Chapter 6.

Did we know that in a desperate move to put the brakes on its burgeoning population, the Bangladesh government has imposed marriage tax, in addition to the current marriage registration fees, on its male citizens and contemplating imposition of taxes on child birth? Several other Islamic countries, where the population growth proliferated under religions sanction and created serious socio-economic problems have imposed family planning as the State policy.

If the Muslims are anxious, in their own interests, to raise their community from the abysmal depths of economic and social backwardness they have to give up polygamy, adopt family planning and join the ranks of progress instead of clinging to the old order of communal collectivity. In the urban swathe of Indian society a great bulk of Muslims are poor and live in Ghettos. Thanks to polygamy, they have larger families. Did we know that according to a study on Muslims conducted by Dr. M.E. Khan of the Operation Research Group, the average number of children born to a Muslim woman in India at the end of her reproductive period was an incredible 7.69 ?

Muslim leaders complain that their community is economically backward and blame the Government and Hindus for it. For this the Muslims are themselves to blame. They have been supporting the practice of polygamy and opposing family planning. Surely, it is not the responsibility of the State to keep on feeding and providing shelter to a community, among Indian citizens, who insist to have more than one wife, and unlimited number of children and do not abide by the national policy of family planning. Their attachment to Urdu has been doing them a lot of harm in their professional and commercial fields where Hindi and regional languages are necessary. The fact that Urdu has no State it is generally considered that its demand is being inflated to build up a case for a separate "identity"; for a cultural shield is necessary to preserve that "identity".

Easy divorce and polygamy are today's blatant social realities in the Indian Muslim Community, with the new Bill threatening to absolve husbands of all responsibility and throwing discarded wives on the mercy of unwilling relatives and corrupt or bankrupt Wakf boards. Again, if polygamy is the bane of Muslim women, there is no dearth of men of other faiths who embrace Islam only to take another wife. The deserted and destitute first wife's only recourse then is a divorce she does not want and maintenance that she must fight for. Many social workers demand that remarriage should not be allowed within a year of conversion, but this would merely put off the problem, not solve it. Besides, while bigamy is a criminal offence, the law is not sufficiently understood and men still do get away with a second marriage.

We are all aware that reforms of Hindu law were carried through in the teeth of the opposition of obscurantists, who were insisting that personal law and religion were inseparable, that the law like the religion was divinely ordained and could not, therefore, be altered by human hand, that amending one would endanger the other, etc. Let us not forget that even Rajendra Prasad was opposed to Hindu law reform. All oppositions were wisely set aside. The law was updated and reformed. Hinduism did not collapse.

The book contains the following chapters :

- (1) Muslim Politics in India; (2) Muslim Communal organisations; (3) Politics of Muslim Personal Law; (4) Dynamics of Muslim Population Growth; (5) Impact of Pakistan Politics on Indian Society; and (6) Challenges to a Nation's Unity.

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CHAPTER I

MUSLIM POLITICS IN INDIA

Under the Mughals there was no politics and, in the democratic sense, politics commenced when the Muslims found that the British manned the administration overwhelmingly by Hindus and the permanent settlement, step by step, expropriated the Muslim landlords and by the nineteenth century most of the land was owned by Hindus. Reluctance of Muslims to read English made them educationally backward before the British. Greatly distressed by the backward State of Muslims, the Muslim leaders fell into the trap of the British policy of "divide and rule" and with a view to secure more benefits for the community worked for separate "Muslim identity."

While the Indian National Congress provided a common platform for all communities to fight for the country's independence, the British Government spared no strategy to generate communal disharmony between Hindus and Muslims. In the process, it introduced the communal electorate system and encouraged Jinnah's two-nation theory that fuelled communal politics. However, while committing the people of India to secularism, the authors the constitution did not take for granted that communalism and all its variants in the Indian polity would *ipso facto* cease to exist.

In fact, some members of the constitution-making body foresaw that the canker of communalism would persist unless new India took adequate measures to eliminate it by law. One of the members, Ananthasayanam Ayyangar, moved a resolution on April 8, 1948 stating that "this Assembly is of the opinion that no communal organisation which by its constitution or by the exercise of its discretionary powers is vested on grounds of religion, race or caste, or any of them, should be permitted to engage in any activities other than those

essential for the bonafide and cultural needs of the community."

Intervening to the discussion and supporting the resolution Nehru observed, "We must have it clearly in our minds and in the mind of the country that alliance of religion and politics in the shape of communalism is a most dangerous alliance, and, it yields the most abnormal kind of illegitimate blood." Judging by the recent events arising out of the nexus between religion and politics, Ayyangar's fears and Nehru's warning on communalism seem to have come true, and communalism has indeed become a pernicious feature of our national life.

We should have started a new chapter after the great tragedy of 1947. One way was the logical corollary of partition—a total exchange of population. The Hindus did not seek it because of the attitude of equal respect for all religions which is in our very blood. The second way was making it clear to the Muslims who stayed on here that what they could be offered to them was non-discrimination. That is, what the Constitution sought to do through a common civil code, abolition of separate electorates and reservations, etc.

Politically, parties like the Muslim League, the Jamaat-e-Islami and Majlis-e-Ittahadul Musalmeen should have been eliminated and banned because it is an anachronism to have such parties in India of today. But this was not done. No lesson was learnt. In the meantime, the wave of Islamic fundamentalism sweeping the world has been fanning the fire here also. Khomeini is not only an individual, he is a type of which there are varieties elsewhere. The division of Cyprus is a recent evidence. For the first time, eleven Muslims in Yugoslavia have been charged with conspiring to establish Muslim rule in Bosnia Herzegovena—one of the country's six republics. This is Khomeini's export of Islamic revolution.

Did we know that while India and Pakistan were completely involved in the communal ferment, the Nizam of Hyderabad and the Nawab of Junagarh were dreaming to preserve sovereign States with the support of Pakistan? The Nizam of Hyderabad was a Muslim and all important and key posts in the civil and military wings of his administration were held by Muslims, while the majority of the population was Hindu. In page 295 of his book *The Lid Off*, J.N. Sahnj said that

during the period of political transition, the Nizam and his feudal associates had secretly mobilised bands of unruly, anti-social gangsters operating in the name of Islam to coerce, terrorise and where possible loot the Hindus. The *Razakars* had become a non-official religious militia to fight for and preserve the Muslim control of the State and the independence of the Nizam. Their leader, Qasim Rizvi, a former school teacher, believed that once Hyderabad became independent, the Muslim minority could by compulsion, conversion, forced marriages and monetary temptations decrease the Hindu population and in due course become a majority and preserve Hyderabad as a sovereign Muslim State. Rizvi was just the man the Nizam wanted to mobilise a religious militia and to rouse a sense of ambition among other Muslim rulers to raise the banner of Islam, and to make a joint bid to found a princely confederate State, a neo-revival of the Mughal empire. Through Liak Ali, his Prime Minister and other Muslims, the Nizam maintained a close touch with Jinnah in case a straight alliance with Pakistan became necessary. He paid twenty crore rupees to Pakistan in return for heavy consignment of arms for his army. In addition, a very large quantity of arms had been left by British officers in charge of an Ordinance factory in Hyderabad, manufacturing machine guns, etc. The Nizam was also secretly negotiating with the Portuguese in Goa.

Similarly, the ruler of Junagarh, Mahabat Khan Resulkhanji, against the advice of his chief minister, who was asked to proceed on leave and in whose place was imported from Karachi, Shah Nawaz Bhutto, the ruler acceded his State, with predominantly Hindu population, to Pakistan. Shah Nawaz bundled him off to Pakistan with wives, concubines and dogs, with as much of his wealth in the treasury as could be exported. Indian Government had to intervene following large scale disturbances in the State, in the midst of Indian territory, that were affecting the neighbourhood.

With secularism laid down in the Constitution, which the Muslim community's elected representatives unanimously supported and to which they swore allegiance, the evil of communal politics was expected to disappear gradually, if not instantly. The facts today, however, present a different picture. On an average about 400 to 500 communal riots occur

every year taking a very heavy toll of life and property and weakening the fabric of national solidarity.

A common factor behind communal disturbances relates to elections. The electoral process in the country, instead of pulling down the boundary wall of community and religion, has unfortunately made them more pronounced. Both communal and caste appeals are made to religious sentiments, resulting in even greater mistrust between the two communities.

Any party which wants to rule India cannot hope to win an election without the support of the Muslims. Though they comprise more than half the electorate in only ten constituencies, the way the Muslim vote can influence the fortunes of candidates in as many as 206 other constituencies spread across 13 States. In 71 of these constituencies, the Muslims comprise 20 per cent to 50 per cent of the electorate. In the remaining 135 constituencies, the Muslim percentage ranges between 10 per cent and 20 per cent of the electorate. Naturally, they have a tendency to vote *en bloc*.

Every ninth voter in the country is a Muslim. On his own, the Muslim voter cannot elect a candidate of his choice. By throwing his weight behind a candidate who needs marginal support to get elected, the Muslim voter comes to his rescue. This accounts for the reason why Muslim voters are wooed so assiduously by major parties. Wooing of religious groups as vote banks must end.

Though electoral laws explicitly prohibit communal propaganda during poll campaigns, political parties and candidates adopt underhand communal tactics with impunity. Muslims, as various inquiry commissions have brought out, are still exploited by political parties for votes. The Indian Union Muslim League (IUML) surely brings to mind unhappy memories of Jinnah's Muslim League, notwithstanding the IUML's commitment to the ideas of secularism. Simply because the party has the prefix "Indian Union" its leadership cannot claim that the name is free from provocative communal associations. It also needs to be noted that a political party without a communal label, but exclusively for a particular community cannot be treated as entirely non-communal, more so when it is linked with a communal body.

The Election Commission which is known to have prepared

a package of proposals for electoral reforms, should take up the challenge of communal politics by recommending that no political party be recognised if it bears a communal name and if its membership is exclusively for a particular community. This is entirely in tune with what the founding fathers resolved to ensure the secular character of the Indian Republic. Presently, some political parties are acting against the letter and spirit of the Constitution by surreptitiously wooing voters in the name of religion and caste.

In Kerala, the Indian Union Muslim League (IUML) is a decisive factor in coalition fronts; it holds the key to the life of coalition governments. It along with the Congress was in the forefront of the fight against the communists in 1957. But from 1962 onwards relations between the Congress and the IUML began sowering. IUML gradually moved to the Marxist camp in 1967 and found a place in the Marxist coalition ministry. As a token of gratitude for their services, the CPI(M) carved out a separate Muslim district for them—Malapuram in 1968.

In 1969, relations between the IUML and the CPI(M) worsened and in the break-up which followed, the IUML found a secure position in the Congress-CPI led UDF ministry. In 1957 the IUML split. The breakaway group called itself All-India Muslim League (AIML) and joined the CPI(M) led opposition. In 1979 a ministry was formed headed by the IUML leader, C.H. Mohammed Koya with the support of the Congress (I) and Congress (U). Next year, the IUML backed the Congress (I) led UDF ministry. And in 1982 the IUML became a major partner in the UDF ministry consisting of 12 parties.

In Kerala, the Congress (I) has 33 seats in the 141 member House and next to Congress (I) is the IUML with 18 seats. The Congress (I) led UDF ministry has to depend on the IUML, the Kerala Congress, the two factions of the National Democratic Party (NDP), the two factions of the Ezhava-dominated Socialist Republican Party (SDP), the Janata (Kamalam group), the Janata (Gopalan group), the Praja Socialist Party, the Revolutionary Socialist Party (Srikantan group) and an independent member body of the Dheevera (fisher men's) community, who flaunts the banner of the Democratic Labour Party. Besides,

the National Revolutionary Socialist Party and the All-India Communist Party (AICP) are also members of the UDF; although both have no representation in the Assembly, the crumbs of power are not denied to them.

Kerala's unique coalition culture where confrontation rather than consensus, between the different constituents, has manifested itself on many a major issue. Still, different all-India parties have agreed to form alliances of convenience with communal parties and glossed over their differences to keep the coalition going.

The Muslim League in Kerala has emerged as a very powerful partner of the ruling governments and has been playing its trump card to secure benefits for its community. The Supreme Court decision allowing alimony to a divorced Muslim woman, which received the support from the CPI(M) led to the merger of the IUML and the AIMUL in July 1985. A resolution unanimously adopted at the Calicut meeting said that the two groups had come together to work for the protection of the best interests of the community in the context of the strong threats and challenges raised against the independence the security of the Muslim community.¹

There are continuing violent clashes between the CPI(M) and the United Muslim League supporters in the Malabar area. The CPI(M) has been holding seminars on the Shariat and going hammer and tongs at the inequities in the Muslim divorce laws. In Parappanangadi in Malapuram district tension prevails following an attack by the Muslim League supporters on a CPI(M) meeting called to explain its stand on the Shariat. In Calicut, the Democratic Women's Association had been organising processions by Muslim women against the Shariat in which, for the first time, even wives of Marxist leaders had also joined. The Association had also completed a door-to-door signature campaign among Muslim women urging measures to protect them from the alleged abuses of the Shariat. The Student's Islamic Movement in India had countered with its own processions of women in defence of Shariat.²

The UDF leadership had been maintaining complete silence on the subject apprehending that the ministry may fall if it came out openly against the Shariat. It covered up the behaviour of the president of the IUML, who attended S. Moideen in

Islamabad in 1984 in which a declaration was adopted claiming Kashmir as an integral part of Pakistan.

Shaikh al Sayeed Yusuf Sayeed Hashimi al Rifai, President of the World Muslim Minority Commission and his assistant Anwar S. Yakub al Rifai, the two Kuwaiti nationals, had been banned by the Government of India, in June 1985, from entering the country. The World Muslim Minority Commission is an organisation funding mass conversion of Harijans to Islam. Though the Government of India had banned their entry into the country through its circulars 44 and 45 of 1985, forwarded to the Kerala State government by the Union Home Ministry in June 13, 1985 the two people had no difficulty in entering Kerala as and when they wanted, with bags full of money. Air India operates a direct flight from Kuwait to Trivandrum every Sunday but apparently its staff at the other end are not as cooperative as those of its Abu Dhabi office, which explains the two Rifais boarding an Air India flight from the UAE without a valid visa to enter India, as admitted by the Home Minister, V. Ravi in the Kerala Assembly.

The Muslim League took care of them when they touched down in Trivandrum on January 29, 1986 and State Cars flying the national flag were waiting at the apron. Accompanied by some Muslim League ministers they travelled extensively in the Muslim predominated Malappuram district and the neighbouring Muslim pockets of Wynad, Calicut and Cannanore districts, as guests of the Muslim League, participating in functions organised by the latter. It was alleged that fifteen pieces of their baggage were cleared, at the airport, by the Muslim League Reception Committee without Customs Check. It was reported that the two Rifais had pledged aid totalling Rs. 6 crores to various Muslim Organisations during their 10-day tour from January 29 to February 7. Their visit was given wide coverage in the Muslim Press in the State, *Chandrika*, the mouthpiece of the Muslim League. Interestingly, all concerned ministers and Muslim League MLAs pleaded ignorance of the fact that the Kuwaitis were undesirable.

More alarming, however, are the facts that the IUML had in the past twisted the chief minister's arm and wrested concessions ranging from an ordinance to protect Muslim interests in the lucrative timber trade to an allotment towards a pension

scheme for a section of Muslim Mosque employees. Kasargode, a Muslim pocket, has been formed into a district carved out of Cannanore district to appease the Muslim League.

Evidence is piling up to show that the Muslim League is spreading its fangs, with the help of Pakistan and some other Gulf countries to destabilise India. The Muslim League had the temerity to treat as state guests two blacklisted Kuwaiti Muslims. More unbecoming was the role by the Karunakaran government especially by his Home Minister who does not bother about the national security. The kind of liaison the ruling Congress maintains with the Muslim League in Kerala is utterly disgusting even after Indira Gandhi had taken serious exception to the statements about Indian Muslims made by League President Sulaiman Sait at a conclave held in Pakistan.

Earlier, back in 1968, during the CPI(M) led ministry, Malapuram, a Muslim pocket was formed into a district to placate the Muslim League. Thanks to the policy of appeasement, in basic violation to the very concept of secularism, the Muslim League succeeded in pressurising the UDF government for an outright grant of Rs. 15 lakhs to the State Wakf Board towards payment of pension to mullahs and another special grant of Rs. 1.50 lakhs for the rehabilitation of 153 Muslim families allegedly affected during the communal riots in Trivandrum in 1982. Unless the Congress (I) take a principled stand keeping secularism and national integration in view, Kerala, for all practical purposes, could end up in several mini-States, each unit catering to different caste, communal and religious groups. The time has come for the Congress (I) of ridding the State of unholy alliances and of the politics of opportunism.³

India's Muslim population has grown faster ever since the Independence of the country. Today, it is about 80 million (excluding Assam) which is more than Pakistan's population and world's second largest group of Muslims, after Indonesia. Unlike the minorities in other Muslim countries, the Indian Muslims enjoy equal status with all other citizens under the Constitution. The Muslim League, which masterminded the two nation theory and was responsible for the partition of the country, had been allowed to revive itself and is sharing power

in Kerala; whereas normally the Muslim League should have been banned in this country.

What happened recently at Ajmer is an example of anti-national activities of the Muslim League. The large Pakistani delegation that came for the Ajmer urs took out a procession carrying the Pakistani national flag. More amazing was the provocative speech delivered by the delegation leader, Fida Mohammad hinting at the secession of Assam and certain other parts of India.

Did we know that there is a journal called MUSLIM INDIA. Many friends of the editor of this journal suggested that it should be renamed INDIAN MUSLIMS. But the editor did not agree. He wanted to subtly spread the idea that there is a "Muslim India", a "Hindu India", a "Christian India". History shows that seeds of separatism are sown in this way.

New mosques are coming up all over the country and old mosques are being renovated with contributions from Gulf countries as well as from donations from affluent Indian Muslims. Loudspeakers blaze *azan* at odd hours, in Hindu majority areas, with impunity; while in Pakistan, the Ahmedias were prohibited to call their places of worship 'mosques' and forbidden from calling the faithful for prayers through the *azan*.

There are now hundreds of Muslim organisations and hundreds of candidates from this community contesting for Parliament and Assembly seats in States. Joint electorates in practice have demonstrated to at least some members of this community the meaning of secular and national politics, and the meaning of human rather than communal categories. The ability of Indian Muslims to win elections against Hindu candidates in Hindu-majority constituencies could hardly fail to educate them.

Several Islamic institutions have been set up for research work in Urdu, Arabic and Persian languages. Thousands of madrasahs are functioning all over the country. Urdu has been given the status of second official languages in Andhra Pradesh, Bihar, Himachal Pradesh and Uttar Pradesh. Several roads and streets as well as important cities are named after Muslim rulers and leaders. Prophet's birth-day and important Muslim festivals are declared holidays. Indian Muslims have seen law

and order prevail, have seen the police prevent riots against themselves, have watched the secular State helping them to progress in a peaceful atmosphere. Does all these point to the persecution and insecurity of Muslims in India as claimed by Muslim communal leaders ?

Unfortunately, however, most Indian Muslim leaders have spurned, throughout, to identify themselves with Indian nationalism and encouraged separatism ; only in very limited numbers the Muslim leadership evaluated with true appreciation the ideals and announced objectives of the nation and such earnestness as the government and the Hindu leadership evinced in pursuit of these. Infinitely precious are the aspirations of sheerly human welfare irrespective of communal consideration, which the secular State has formally proclaimed.

Notwithstanding the fact that almost all Indian Muslims are Hindu converts, they opposed adoption of *Vande Mataram*, which appeared in Bankim Chandra Chatterjee's *Ananda Math*, as our National song on the ground that the book *Ananda Math* was anti-Muslim. It may be noted that Sri Ramakrishna is known to have lived during 1866 as a Muslim under the guidance of a Muslim teacher. But Muslim have kept aloof from the Ramakrishna movement. In recent times, Mahatma Gandhi, towards the end of his life, asked to be sung at his evening prayers : *Ishwar Allah Tere Nam*, but no Muslim was ever found saying it including non-conformist Ghalib. As a result of Muslim politics no Muslim is known to have taken interest in national integration.

A close look into the Muslim communal politics has become overdue. Apart from the Muslim League, there are several other Muslim communal organisations and Muslim leaders who have contributed to the protracted longevity of communalism. These organisations are not short of funds. Their money comes from Muslim countries.

In November 1982 forty-five Muslim M.Ps. submitted a memorandum to the Prime Minister alleging therein that the Muslim community in India has been subjected to persistent discrimination and living in the shadow of terror and insecurity due to frequent communal riots. A question had been raised by many including Rafiq Zakaria, whether Muslim M.Ps. represent only their co-religionists, whether they should be

concerned exclusively with the plight of Muslims and whether they should not have associated with the memorandum, the non-Muslim M.Ps, who were equally perturbed over the recurrence of communal violence. These are legitimate questions and deserve to be answered. In strict constitutional terms, a Muslim M.P. cannot represent only his co-religionists. He represents all his constituents.⁴

More serious than the specific demands is the spirit behind them. Most unfortunate of all, commented *the Statesman* in its editorial dated December 19, 1982 perhaps is their inclination to act in concert as Muslims to the exclusion of other communities which they also represented. However, important that identity might be in personal and community life, it has no place either in the basis of the republic or in the Parliamentary system of government. Misguided attempts to convert religious unity into a political platform cannot auger well for the secular and democratic belief that underlies the unity and stability of such a vast and diverse nation. In the immediate context, concluded *the Statesman*, they may only be exacerbating the communal situation already bad enough in certain parts of the country.⁵ Writing on the subject in the *Indian Express*, February 8, 1983, the well-known educationist and former member of the Minority Commission, V.V. John commented perceptively : Not a word on the truth or otherwise of such a grave charge as that "communal violence is turning more and more into police action against the Muslim minority." . . . Instead, the M.Ps. are being warned that they are playing with fire.

While speaking of the ways and means of preventing riots, the memorandum made sweeping allegations against the government and Hindus and insinuated forced "cultural assimilation" of and "police action" against the Muslims. But the rhetoric and the not-so-implicit suggestion that the growing incidence of communal riots is part of a grand design to connive at the atrocities against the Muslims hardly seems calculated to defuse the tension. Can the Muslim M.Ps who presented the memorandum deny about the recurring manifestations of Muslim aggressiveness? Two policemen were attacked and killed in Aligarh and a marriage party of Harijans was beaten up in Moradabad in 1980 immediately before the communal riots in August. Earlier in March 1983, a police

party was assaulted by Muslims in a Haryana village when it went there to investigate a case of cow slaughter. In Jayas town in Rae Bareilly a Muslim mob objecting to the parking of the *Ram Janaki Rath* in their locality attacked the Hindus, killed a 12-year-old boy and injured seriously 30 people including 17 policemen on duty in October 1985. Instances have occurred when Muslim mobs attacked Hindu processions, objecting to their passing through Muslim locality. Did we know that in football and hockey tournaments if a Muslim team taking part is defeated by its rival, Muslim supporters invariably take recourse to rioting to express their protest, unless adequate police arrangements are made ?

Communal riots in Meerut on 6 September 1982 which left 12 dead, 50 grievously injured with 536 arrests by September 11, were the outcome of a dispute between Hindus and Muslims of highly sensitive Shahghasa area over the location of a temple and *peepul* tree and a *mazar*. The land was claimed both by Hindus and Muslims. The temple priest was attacked when he did not stop the ringing of bells during the *arati* of Lord Krishna on the Janamasthami Day. According to a Muslim minister Muslims themselves had acted unreasonably during Meerut riots. He avers that Qazi Zahir Hasan of Meerut had no basis to claim the disputed land under the *peepul* tree in the Shahghasa area. No one was ever buried there. So how could the Qazi assert that a *mazar* was there ? "We have to admit when we are in the wrong" he said.

Their attitudes expressed a basic antagonism and a refusal to admit the fact that India and the Hindus treated the Indian Muslims as more than equal. This is proved by the growth of Muslim population ; rapid growth of mosques, madrasahs and other Muslim educational and cultural institutions ; Hindus voting Muslim candidates, without reservation, to Parliament and State Assemblies ; high government posts held by Muslims at the Centre and in the States, etc. Those who argue that in Police and service recruitments the Muslims have been discriminated against, might ponder over the fact that even when the Muslims had a level of representation they can never again hope to attain, the community was so powerfully driven by a sense of insecurity that it opted for the partition of the

The majority of Hindus are free from communalism. If all the Hindus had been communal, as the Muslim M.Ps. seem to think, no law and order machinery could have prevented the massacre of Muslims, scattered in towns and villages, all over the country. This has been a redeeming feature of Hindu tolerance. Without this prime virtue, Hindu society could not have survived so many savage onslaughts on it from without. Nor could it have sustained and nurtured itself despite the myraid divisions and subdivisions within itself. Indeed, if the essential unity of Hinduism transcends its seemingly fragmented structure, it is basically because Hinduism is not a proselytising religion. In a sense, it is not even a religion but a way of life that encompasses within its fold many ways of life. The Hindu has not one but several identities. That is why he is so assimilative and resilient.

It is a pity that sections of thinking Muslims who recognise and applaud the fact that Hindu society is basically tolerant are not above accusing it of brazen discrimination. To claim that communal conflict in the country stems from a systematic attempt by the majority community at cultural or economic annihilation of the Muslims is utterly wrong ; indeed, tension is generated and often erupts into violence precisely because the Muslim communal organisations and Muslim leaders dominated by conservatives, mullahs, and ulemas and with the support of Pakistan, have been sowing seeds of discord and hatred.

Hindu-Muslim antagonism can be ascribed to a complex set of factors going back to the Muslim invasions, destruction of Hindu temples and building of mosques over them, forcible conversion of Hindus to Islam, and British encouragement of Muslim separation for their own ends during the imperial rule. Partition of the sub-continent was the logical culmination of these historical events and the post-1947 India though secular could not remain unaffected by them. And we have the leaders of over 80 million Muslims tilting at the windmill. There are several other contributory factors but we shall concentrate here on the important ones.

Playing of music before a mosque, slaughtering cow by a Muslim in a public place, projecting Urdu as the State language for all Muslims and conversion of Hindus to Islam have often

ended in communal riots. No one disputes that during prayer hours processions should stop music while passing before a mosque but what justification the Muslims have to obstruct and attack processions including Hindu funeral processions, playing music before mosques beyond prayer hours or processions passing through a Muslim locality ? When we consider that the *namaz* of thousands of Muslim commuters travelling in long distance trains do not get disturbed by the noise of running trains, shouting of passengers, hawkers, etc. can it be denied that their demand to stop music before a mosque is simply a plea to perpetuate a confrontation with the Hindus ?

Many Hindus and Muslim festivals are marked by a series of processions attended by music. In places where the relationship between the two communities is cordial not only both communities contribute funds liberally but they take part in processions jointly ; and no restrictions are insisted upon by the Muslims regarding playing of music before a mosque is something that could never be tolerated on the ground of so-called religious susceptibilities. Holi festival has not infrequently ended in communal riots as throwing of coloured water and gulal is resented by Muslims. At the same time there are a number of instances, beginning from the reign of emperor Akbar, of Muslims leading Holi processions and taking active part in the festival.

Muslims eat beef, but Hindus do not. For Muslims eating of pork is forbidden and the sight of a pig is intolerable to them. For Hindus protection of cow is a part of their religion ; the cow is associated with Lord Krishna and the bull is associated with Lord Shiva. Emperor Akbar had banned cow-slaughter. Syed Ahmed Khan, the founder of Aligarh Muslim University, had expressed in 1880 : Slaughtering cows for the purpose of annoying Hindus is the height of cantankerous folly, if friendship may exist between us and them, that friendship is far to be preferred to the sacrifice of cows.⁶ In the days of Hindu-Muslim unity in 1927 cow sacrifice was reduced from 700 to 3 or 4 said Dr. Ansari.⁷ Since the Muslims continued to hurt the sentiments of Hindus by slaughtering cows and such incidents culminated in communal riots cow slaughter has been banned under the law under

Article 48 of the Indian Constitution. But politicians in Kerala and West Bengal, to appease the Muslims for votes, allow the Muslims to kill cows and sell beef in Muslim locality. When the Muslim majority State of Jammu and Kashmir does not permit the slaughter of cows what justification the governments of Kerala and West Bengal has to permit it ?

Urdu has been projected as the language of all Muslims to perpetuate their feeling of separatism notwithstanding the fact that only 5 per cent of Muslim population in India speak Urdu and not all of them are Muslims. Urdu is not, and never has been, the "Muslim" language, or rather, the Muslims' language in any exclusive sense. Nor is it, and never has been, the mother-tongue of the majority of Muslims. Jinnah, who could not write his own name in Urdu, included it in his famous fourteen points and cynically used it as a tool to forge a Muslim "identity." Today, its usage is being inflated to build up a case for separate nationhood because a cultural shield is necessary to preserve a separate "identity". Let us not forget that in 1971, there was a civil war between the Urdu-speaking and Bengali-speaking people both involving Islam, which ultimately led to the emergence of a new State Bangladesh.

There is little common between the Indian Muslims from Kashmir to Kanyakumari and from Assam to Kutch. They do not even have a common language. In Kashmir, Urdu is the official language no doubt but the Kashmiris have a fully developed language of their own. All correspondence within States and between States and the Centre are either in Hindi or in regional language. It is obvious, therefore, that without adequate command of the regional language no one, whether Hindu or Muslim, can expect employment under the State government whose administration is usually conducted through the regional language. The reason for the poor representation of Muslims in services is not that they are discriminated against but that the standard of education they receive does not help them to compete. But Muslims have a habit of blaming Hindus for all their woes.

A Muslim Social Conference was held in Bombay on 25 March 1973, organised by the Indian Secular Society and the Muslim Satyashodhak Mandal, and attended by nearly 300 delegates from all over Maharashtra, including 50 women who

had braved the opposition of their menfolk, the conference was inaugurated by Dr. Moin Shakir of the Marathwada University, and the Keynote address was delivered by A.A.A. Fyzee, an authority on Islamic jurisprudence.

During the discussion many delegates made known their personal experiences of Muslim obscurantism. Mehboob Sayyad gave several instances to show that the Muslim sense of discrimination was a false sense of persecution based on self isolation, ignorance, and prejudice. He stressed that Muslims must blame themselves and their communal leadership for their present backwardness.⁹

Shabir Shaikh of Kalyan, referring to himself as an authentic Maharashtrian, gave the case of a one-day hartal led by the Shiv Sena in Kalyan in protest against an unresolved dispute. While all schools in Kalyan joined the hartal, the Urdu schools abstained. When he tried to persuade them to associate themselves with their townfolk his life was threatened. He further said that when he told his elder brother that he wanted to study Koran in Marathi, he was called a *Kafr*.¹⁰

In States like Andhra Pradesh, Bihar, Himachal Pradesh and Uttar Pradesh, Urdu enjoys the status of second language today. Despite pious declarations, the rural base has been lost to Urdu. No language can survive and thrive without a grass-root regional base. Literature is co-extensive with life, just as language is with the everyday socio-political and cultural realities. Koran is available in Hindi, Urdu and other regional languages. M.R.A. Baig suggested Deband and Lucknow institutes exclude English from their syllabi. Even Syed Ahmed Khan was declared a *Kafr* by the Ulema of Deband for advocating Western education. Muslim attitude continues to remain so. In several States for lower official posts a growing number of Muslims have, for the last few decades, deliberately refused to learn the regional language on the ground that their mother-tongue is Urdu. It is obvious that without adequate command of the regional language no one, whether Hindu or Muslim, can expect employment under the State government whose administration is usually conducted through the regional language. Economic backwardness and incidence of unemployment among the Muslims is not due to discrimination but to defects within the Muslim society itself brought out in the

Annual Report of the Business and Employment Bureau, an organisation established in Delhi by a group of Muslims. Many years ago, the late Prof. Humayun Kabir, analysing this problem rightly came to the conclusion that unless Muslim Indians could be better qualified in larger numbers they would continue to suffer in competition.¹¹

Communal riots have occurred on the issue of conversion of Hindus to Islam. After the Muslims got their "homeland"—Pakistan, it was thought that there would be no venture on the part of the Indian Muslims to convert Hindus who comprise 82 per cent of the total population. Unfortunately, however, with plenty of foreign funds available and communal Muslim organisations being there, with international links and Pan-Islamic identity and their right to propagate and proselytise, under Indian Constitution, Islam and Hinduism met head on. Conversion from free choice and conviction should always be permissible, but this is very different from organised missionary effort as a religious duty. Why should they oppose the enactment of a legislation to curb conversion by inducement and other unlawful means? Is Muslim Communalism chiefly interested in perpetuating confrontation with Hindus by undermining a neighbour's faith?

The alienation is at the root of riots. Muslim leaders do not face the question why riots almost always start with attacks on Hindus. When they find more Muslims being arrested they think enough proof of their victimisation even if they start the trouble, attack other communities and police parties, desecrate temples, resort to planned conversion of Hindus to Islam, sponsor demonstrations to pressurise government to declare Urdu as second language in States, etc. They do not explain why Hindu temples were attacked in Hyderabad after some people occupied the Mecca mosque; why the Jagannath temple at Jamnagar in Gujarat was raided after the Israelis bombed the mosque in Mecca; why Aligarh Muslim University should declare a holiday when the Indian Cricket team lost to the Pakistan Cricket team in the test match in Pakistan; why should the Muslims exhibit pro-Pakistani behaviour during the Cricket test between the Indian and Pakistan in Bangalore; why the Ashram of Saint Prabhudatt Brahmachari of Jhusi (Allahabad) was ransacked on October 28, 1982, the Moharrum day by the

Muslim processionists; why Indian Cricketeers should be stoned and booed as "Indian Dogs" and West Indies players glorified by Muslim spectators at the time of one-day Cricket test in Srinagar; why should Muslims in Ahmedabad take umbrage if people celebrated the Prudential Cup victory? It can well be asked why riots take place in areas where Muslims are in a substantial minority, for example, Agra, Aligarh, Bareilly, Baroda, Biharsharif, Bombay, Calcutta, Delhi, Jamshedpur, Meerut, Moradabad, Hyderabad, etc.?

On January 31, 1986, the district and sessions judge of Faizabad (Ayodhya falls under the district of Faizabad) ordered the State Government to immediately unlock the Rama Janambhumi Temple, claimed by Muslims as the Babri Mosque. The building had been out of bounds for both communities since 1949 following a court order. Immediately after the court verdict on January 31, the Vishwa Hindu Parishad and the RSS which had been fighting for the "restoration" of the temple, took out victory processions led by *raths* (chariots) bearing the idols of Lord Rama and Sita. The festivities were well organised. Almost every door and window in Ayodhya and Faizabad were bedecked with lights and buntings. Crackers were exploded and sweets were distributed. Hundreds of thousands people poured into Ayodhya not only from all over Uttar Pradesh but from all parts of India, to have a *darshan* of the place where Lord Rama was born.¹²

The Muslims reacted equally strongly. Within 24 hours of the Court verdict, a riot broke out in Radauli town, about 80 km from Lucknow. A victory procession was stoned resulting in injuries to many. On February 7, a mob indulged in stone throwing during the protest day in Allahabad and burnt copies of two newspapers for their coverage on the court decision. Communal conflicts spread to Allahabad, Moradabad, Meerut, Pilibhit, Shahjahanpur, Barabanki, Varanasi, Sultanpur, Lakhimpurkheri and several other towns in Uttar Pradesh having Muslim concentration. Did we know that there had been as many as 45 small and big communal riots in Uttar Pradesh since the reopening of the Ramjanambhumi Temple and that a total of 45 persons killed and 327 injured?

Communalism cannot be fought by compromising with fundamentalism. For instance, Shah-Bangor case. Initially, a

non-issue, there was no need for any union minister to comment on it. Arif Mohammad Khan was asked to defend the Supreme Court judgment and there was an uproar; the ruling party did a volte-face, accommodating the wishes of the fundamentalists. The Supreme Court judgment has been exploited to the fullest by religious as well as political vested interests among the Muslims.

The next instance that comes to mind is the decision of the government to throw open the gates of the Ramjanambhumi Temple in Ayodhya. No one in the administration bothered to go into the statements of the district magistrate and the superintendent of police, who had said that there would be no law and order problem after the temple was opened to the public. It is true there was no trouble in Ayodhya. But the unlocking of the temple gates had unleashed a large number of Hindu-Muslim conflicts in Uttar Pradesh and elsewhere, thanks to the statement of a Muslim MP who said that the Muslims would not rest till they "liberated" it. It was a provocative statement. He seemed to have forgotten that in the process of "liberation" the Hindus could join hands against their Muslim brethren. Why should a small crumbling mosque at Ayodhya in which nobody had offered *namaz* for years and nobody intends to, in future, arouse fear and fury in a community which has others in the same place, and has built many more all over the country? Does this not raise the suspicion that fundamentalist Muslim leaders are bent on a confrontation with Hindus?

If there was no politics of communalism, the Hindus would have said to the Muslims, "You take it," and the Muslims would have said, "No, no, it is yours," and reason would have said, "Let us both use it." It is not the poor and illiterate who foment communal riots; it is the literate, the educated, the politician who wants to capture leadership in a religious garb and appear as the saviour of the community.

The obduracy of the Mushawarat and the Muslim MP to keep possession of an unused mosque lacks a sense of realism. Is this a cause for which the lives of thousands of people should be endangered? The cannon fodder in their campaigns is ordinary people who inflamed by their leaders' rhetoric, step right into the firing line and pay for their folly with their lives. This way, thousands have died as Indians have fought Indians

during riots over the years. Instead of solutions being found intractable problems have been created of a kind and degree that did not exist. It is for the saner elements from both the communities to decide the best way of dealing with the Ramjanambhumi Temple and Babri Masjid problem. Is confrontation more important than the poverty which is grinding the lower-income groups among the Muslims and now endangering their safety as well? Should not men whom both communities trust try to find a solution? It is not Islam or Hinduism that incites riots. It is only leaders who are fanatics and never found in the streets when rioting occurs are responsible. It leads to confirm an allegation widely made that the path to the leadership of the Muslim community must be strewn with religious demands, that Muslims only respond to the Jinnah variety of leadership. M.J. Akbar in his article: *From Ranchi to Kishanganj, via Indore* published in the Telegraph dated 6 May 1986 asks the Muslim MP: "If a person with his intellectual abilities, with his social advantages, decides that the only way to achieving success in the Indian political system is through confrontation, then what is the young Muslim going to learn?" M.J. Akbar continues: "There is genuine worry in the small towns and villages of the north that the politics of religion that is being played is going to lead to great bloodshed. And when that blood is shed, it will not be the blood of the children of the elite which will spill on dusty homes turned furnace-hot by a relentless summer-sun—it will be the blood of the children of the poor. The poor know it. They know it in every town from Delhi to Kishanganj. They can see the crisis and are searching for a way to avoid it."

M.J. Akbar throws a challenge to the Muslim MP and questions: how much will you mislead? He says that the Muslim MP compartmentalises our country into Muslim India and Hindu India and Christian India and Buddhist India and so on and so forth. The name that the Muslim MP gave to his magazine was carefully provocative and in total consonance with his approach to politics. The merchants of communalism need to be fought on every front if the secularism that India and Indians boast of is not to vanish. It is the greatness of our secular democracy, nurtured and protected by democrats of every religion. This is a proud democratic nation which even

allows those who broke our country, the Muslim League, a right to sit in our Parliament if they can find enough people to vote for them.

On April 30, 1986 when the government was pulling out all the stops in its campaign to get the Muslim women's (Protection of Rights on Divorce) Bill passed by a massive majority, an Urdu periodical in Delhi stated in an editorial that the Muslims had won the battle for the Bill but the battlefield had to shift to the Babri Masjid in Ayodhya. There was a commonly held belief that the ruling party pushed through the Bill only in order to secure Muslim votes and that it will take a great deal more to mollify them. Far from persuading the more conservative segments of the Muslim population that the ruling party is their natural ally, it had hardened the resolve of the fundamentalists to fight for more concessions on a host of other points. The Babri Masjid has clearly been chosen as the next battleground. But this too is only a beginning. The passing of Muslim women's Bill has raised Hindu fears that the government itself is betraying the majority community by pandering to Muslim fundamentalism, and conceding the two nation theory in all but name.

The communal tension also spread to Delhi and Jammu & Kashmir. In Delhi rioters ran amuck, causing damage to property in the Daryagunj and Asaf Ali Road area and even resorted to brickbattling. By the time prohibitory orders had been imposed and curfew orders announced, the police opened fire to curb violence. The worst affected area was the Lal Kuan locality and the Teraha Bepiram Khan Gali, where police came under a volley of brickbats and were attacked with firearms. Both Jammu and Kashmir valley were in flames for 20 days. Some towns, having Muslim pockets, were also affected and the communal tension had also found an echo in Pakistan where several temples were damaged due to violence.¹³

If the unlocking of the Rama Janambhumi Temple gate has led to euphoria among Hindus all over the country, it has left the Muslim community agitated angry and in several places openly rebellions. The local Muslim leaders filed a writ petition before the Lucknow Bench of the Allahabad High Court pleading that the district judge's order be stayed.¹⁴

Obscured by myths, twisted by history, confused by courts

and fanned by the strong wind of religious fervour it has become impossible to sift fact from fiction. Historically, says Rudrangshu Mukherjee, it is affirmed that in the 18th century, during the time of Nawab-Wazir Safdar Jang, offerings of flowers were being made to Hanuman at the foot of a huge old tamarind tree known as *Ram Chaura*. Local tradition further claims that when on a certain occasion Safdar Jang was seriously ill, he was cured by the prayers of Abhi Ram, the chief of the then mendicants of Ayodhya. This earned for Abhi Ram and his followers the gratitude and patronage of Safdar Jang.¹⁵

The good offices of the Nawab came in useful when, according to tradition again, Hanuman appeared to Abhi Ram in a vision and desired him to build a temple at *Ram Chaura*. Hanuman was thus the eponym of the temple. The Hanuman Garhi, is a part of a complex of shrines in Ayodhya. The complex falls within the boundary of Ramkot, the fort that Rama occupied. Above this, on the hill stood the Janamsthan temple and adjacent to it were the Kanak Bhawan, the Sita Rasoi (or Sita's Kitchen). The Ratan Singhasan (marking the place where Rama was installed after he returned from exile) and the Kaushalia Bhawan. All these, as their names indicate, were associated with the life and career of the eponymous hero of the epic. Hanuman Garhi was considered the most important and a large number of pilgrims congregated there every Tuesday.¹⁶

Outram writing from Lucknow in 1855 described the temple as being among the most sacred of their (Hindus) edifice throughout all Hindustan. Events in Hanuman Garhi in 1855 could not possibly have escaped Outram's notice. Captain Alexander Orr of the Frontier Police reported that in the end of July, a "hostile collision" had taken place between the Muslims and the Bairagis of the Hanuman Garhi temple. It was not a minor clash. Orr estimated that around 600 Muslims and 8,000 Hindus were involved and about 70 to 80 persons had died on each side. The report of Outram emphasized that the Bairagis had been assisted "by thousands of the district people." The battleground seems to have been the space between the Hanuman Garhi and the Janamsthan temple on

the site of which a mosque is said to have been built in the late 1520s.¹⁷

The Commission of Inquiry appointed by His Majesty's Government, consisting of Captain Orr, Raja Man Singh, the most influential taluqdar of Faizabad district and Agaie Ali Khan. The Commission came to the conclusion that the Garhi had been in the undisputed possession of Hindus for more than 100 years, and the spot at which the Masjid allegedly stood was 12 yards from the temple of Hanuman; such a close proximity, the Commission said, was an impossibility.¹⁸

It appears that the legal battle started in 1885 with the filing of a suit (number 61/280 of 1885) in the court of a sub-judge, Faizabad by Raghubir Das, the Mahaut of Janamsthan pleading permission to construct a temple over the platform. The suit was dismissed. He filed an appeal before Colonel J.E.A. Chambier, district judge, Faizabad. After inspection of the disputed place on March 17, 1886. In his judgment, dismissing the appeal, he said: "I found that the masjid built by emperor Babar, stands on the border town of Ayodhya, that is to say to the west and south, and it is clear of habitation. It is most unfortunate that a masjid should have been built on the land specially held sacred by the Hindus. But as that occurred 356 years ago, it is too late now to remedy the grievance. All that can be done is to maintain the parties in *status quo*. In such a case as the present one, any innovation would cause more harm and derangement of order than benefit."¹⁹

Against the order of the district judge, the Mahaut went in appeal before the Judicial Commissioner, Oudh on May 25, 1886. The Judicial Commissioner, W. Young, also dismissed the appeal and in his judgment dated November 1, 1886 observed: "This spot is situated within the precinct of the grounds surrounding a mosque erected 350 years ago owing to the bigotry and tyranny of the emperor, who purposely chose their holy spot, according to Hindu legend, as the site of the mosque."²⁰

The Hindus seem to have got very limited rights of access to certain spots within the precinct adjoining the mosque and they have for a series of years been persistently trying to increase those rights and to erect buildings on two spots, namely :

(1) Sita Ki rasoī (Sita's Kitchen) and (2) Ram Chandra ki Janambhūmi (birth place of Lord Rama).²¹

With the dismissal of this appeal nothing significant happened between 1886 and 1934. The Babri Masjid, however, suffered damage during communal riots in 1934 which was triggered off by the slaughter of a cow in a village of Shahjahanpur near Ayodhya on March 27 that year. According to available documents, Hindus demolished part of the walls surrounding the mosque and damaged the domes. However, the mosque was rebuilt and reconditioned at the cost of the government through a Muslim contractor.²²

Both Sunni and Shia Muslims claimed the mosque in 1936 and an inquiry was conducted by the then Commissioner of Wakf under the U.P. Muslims Wakfs and it was held that the Babri Masjid was built by Babar who was a Sunni Muslim. The report was published in the official Gazette dated February 20, 1944. This was found in the 1945 litigation between the Shia Central Board of Wakfs and the Sunni Central Board of Wakfs in the court of civil judge, Faizabad. The civil judge S.A. Ahsan in his judgment dated March 23, 1946 held that the mosque was founded by Babar Shah and that evidence showed that the mosque had been used by members of both sects.²³

According to the District Gazetteer, Faizabad, 1905, "It is said that up to this time (1855) both Hindus and Musalmans used to worship in the same building. But since the Mutiny (1857) an outer enclosure has been put up in front of the mosque and the Hindus forbidden access to the inner yard, make their offerings on a platform (chabootra) which they have raised in the outer one."²⁴

The Vishwa Hindu Parishad in a pamphlet issued by it claims that the temple was demolished on the orders of first Mughal emperor Babar, and a masjid constructed over it by his governor, Mir Baki Khan. The pamphlet quotes British historian Cunningham as writing in the Lucknow Gazetteer, Volume 36, page 3: "The battle to raze down Ayodhya's famous Ram Janam Bhoomi continued for several days. About 1.74 lakh Hindus were killed in the fierce battle but Baki Khan could not enter the temple. He could destroy the temple by using artillery. It is claimed that the Babri mosque

was constructed over this spot in 1528. In 1908 edition of the

Gazetteer referred to by the Parishad it was asserted that in the corner of a vast mound known as Ramkot is the holy spot where Ram Chandrajī was born. Most of the enclosure is occupied by a mosque built by Babar from the remains of an old temple."²⁵

It is reported that the temple/mosque had in the past been an example of Hindu-Muslim cultural co-existence. Both communities offered their prayers and *namaz* on its grounds. While Hindus used the building for *pooja* six days in a week, Muslims used it for *namaz* on Fridays. The inscription in Persian on the gate of the building is again an example of the amity that existed between the two communities who lived and worshipped side by side. According to most Indian historians, the British policy of divide and rule was largely responsible for nurturing communal divisions. In 1857, the British executed four Hindu and Muslim local leaders who had worked out agreement to solve the problem in Ayodhya.²⁶

Ayodhya, the birthplace of Lord Rama and the holy city of the Hindus remains undisturbed by communal storm which has swept through many parts of India, leaving havoc in its wake. Even now, along with its district headquarters in Faizabad, it presents an example of co-existence and harmonious living to religious fanatics. With goodwill on both sides, the issue could be resolved out of court. Otherwise, it is likely to drag on for any number of years.

The position has been similar regarding some other notable spots sacred to the Hindus. For example, Viswanath temple at Varanasi which was demolished and a mosque erected over its base structure, and the mosque built by the side of Krishna Janambhumi at Mathura. Each day, thousands of pilgrims visit these places, see these mosques standing as an affront to their religious sentiments. Surely, this is not the way we can cultivate and promote communal harmony necessary for a secular society. Muslim community in India does not lack persons whose rationality is not affected by narrow sectarian considerations. If such men and women mobilise opinion in favour of vacating the centuries-old aggression as a goodwill gesture to their Hindu brethren, it would be a tremendous positive contribution towards building up a firm base for true communal understanding.

The fundamental fallacy of the Muslims has been to live in a world bigotry, fanaticism and sectarian values. Nothing proved this more than that after generations of what had seemed to be almost model secularism in Hyderabad State, an uprising of the violence of the Muslim Razakar movement could erupt. The psychology of solidarity and confrontation whose hangover from the past they cannot shed, leaves them with no alternative except blaming Hindus and the government for all their ills. It is no wonder, therefore, that any measures, however, secular, to which Muslims objects, brings Islam into "danger". "It is such self-interested interpretation and hypersensitiveness which make fanaticism the hallmark of Islam" says M.R.A. Baig.²⁷

The Indian Muslim is yet to think and act as an Indian first and Muslim next. It is useful to bear in mind that the factors which led to the partition of India are not dead, and represent a similar constellation of forces even after they opted to become citizens of a non-Islamic State. For example, a Muslim MLA of Andhra Pradesh had publicly suggested that there should be a separate Muslim State within each State of India. A separatist trait has remained the bane of the Muslim mind. A class of Muslim leaders, by constant repetition of slogans such as "Islam in danger" has been exploiting their community to seek power and pelf for themselves by playing the Muslims as a caste group in Indian politics instead of trying to solve the real problems confronting the community. These leaders not only keep anti-Hindu sentiments alive but at the same time install in the Muslims a sense of separate identity. "There has been a total failure of the Muslim leadership" says Prof. Moin Shakir of Marathawada University.²⁸

Prof. Moin Shakir continues : The Muslim political elite appears to be atleast interested in guiding the community on healthy and secular lines. It does not want to educate the community in secularism and commitment of the modern man to the basic values of democracy and socialism. It is not concerned with science as a "cultural discipline with consequences for its outlook, on man and universe." This is why the community is turning to medieval thinking, slogans and solidarity. Its stand on the issue of communal violence throws

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Muslims have been the greatest sufferers during communal riots. If the Muslim elite is interested only in communal polarisation it should know that minority communalism cannot compete with majority communalism in resources and achievement. Day to day experience shows that a large section of the majority community is still free from communal prejudices and it is intriguing to note that the Muslim elite does not seem to have faith in a healthy social set-up as a factor in promoting mutual trust.²⁹

Is it central to the interests of the Muslims to engage in cow-slaughter and resort to riots every time a procession with a band passes outside a mosque even beyond prayer hours? How are the Muslim leaders going to be benefited by hurting the sentiments of the majority community? Are they interested in increasing their population by unlawful conversion, refusal to give up polygamy and to adopt family planning and birth control? No wonder, such collective Muslim activity, however innocent, is immediately regarded as something sinister, and even as a stepping-stone to another Pakistan. For example, during Meenakshipuram mass conversions, the Muslim press and political comment on that occasion spoke of conversions as an instrument of changing the demographic composition of India. Whichever way one looks at it, it does not add up to the spectre of an aggressive majority arraigned against beleaguered minority. An atmosphere of hostility has been the cause of permanent tension and periodic riots.

It may be recalled that Assam witnessed a rapid growth of Muslim population long before the partition of the country and Muslim ministers during the times of Muslim League Premier Mohammed Sadullah encouraged Muslim peasants from Mymensingh and other districts of East Bengal to migrate into Assam. The Muslim population in Assam kept on increasing from 9.4 per cent in 1911 to 34.5 per cent in 1971 as the census figures would indicate. A large number of Muslims from Bangladesh entered Assam without obtaining the necessary travel documents and the infiltration continued and assumed serious proportions following the liberation of Bangladesh. Since many of them had registered themselves as voters there was a move, at the instance of the Government of India, to delete the names of foreigners from the voters' list.

The Assam, Government did not comply with the above instructions from the Government of India because the Muslim legislators of the State Assembly threatened *en bloc* to withdraw their support to the ruling party. The matter came up during the Mangaldoi by-election and the Muslim legislators again raised a hue and cry. The downfall of the ruling party in Assam was due to the withdrawal of their support.

One bitter fact has to be faced. The Ahmedabad riots in 1969 made on less a man than Jayaprakash Narayan remark that the aim appeared to be to secure a second partition of the country backed by Pakistan. Admittedly, wherever Muslims are a substantial minority, they have insisted on maintaining a separate identity and resisted integration with the rest of the country on secular democratic lines. Tara Ali Baig speaking on the riots and communalism in India says that Islam spread phenomenally, but it is only in India and China that Muslims are in a minority. Had this minority in India been as small as the one in China, I would not have been writing this article and communal violence in India would be unknown. Our problem is the size of this minority in India. The threat seems to be that it can get funds from Arab 'brothers', does not adhere to birth control, so Muslim population may one day surpass that of Hindus. Muslims, moreover, insist on living lives by a fixed set of laws laid down for them in an Arab country long ago, which even today they consider inflexible, unalterable doctrine. This is the real root of the separate existence of Muslims in India. They do not know where to turn except to Mecca and the home of their religion.³⁰

Prof. Moin Shakir of Marathwada University says that the undercurrent of communalism is reflected in the proliferation of communal organisations among the minorities, chiefly among the Muslim organisations, basically conservative and fundamentalist in their ideological postures and political approaches. The manipulation of religion and the religious idiom reinforces communal identity and solidarity.³¹ One of the causes of maladjustment and insecurity is Pakistani attitudes encouraging disloyalty of Indian Muslims to their State and a basic antagonism towards India.

It must, however, be admitted that a vast majority of

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they are strong advocates of secular values. Several liberal Muslim leaders and Muslim jurists and Muslim organisations such as the Islam and the Modern Age Society, the Indian Institute of Islamic Studies, etc. have been working to rationalise the Islamic laws without parting with their fundamental principles. For example, M.C. Chagla, an eminent jurist, had said : We come from the same stock and we have lived together for centuries. There is no Islamic law in this country, only Indian law. But politicians will not reform Muslim laws because of their fear of losing votes.³²

The Muslim problem as seen through the red haze of communal clashes, violence and frequent confrontation is religio-political in nature and origin. The point was emphasised by the Madon Commission which inquired into communal disturbances in Bhiwandi—Jalgaon (Maharashtra) in May, 1970. The report says: The architect and builders of communal tensions are the communalist and a certain class of politicians—those All-India and local leaders out to seize every opportunity to strengthen their political positions, enhance their prestige and enrich their public image by giving a communal colour to every incident and thereby projecting themselves in the public eye as the champions of the religion and the rights of their community. The paradox is that the great bulk of Muslims are poor and illiterate. They live in ghettos or traditional Muslim *bastis* where Muslim butchers, book-binders, tailors, weavers, bakers, carpenters, masons, rickshaw pullers, washermen, shoe-makers, etc. dwell and swell. Thanks to the Muslim Personal Law they also have larger families. They are easily exploited by Muslim communal leaders and mullahs mobilised in large numbers during disturbances. The communally Muslim politicians and mullahs have never left the gullible Muslim citizen alone and seeds of distrust have been planted in the minds of the Muslims. The future of Indian Muslims depends upon their own ability and faith to live in collaboration. If a devout Catholic in the USA paying allegiance to the papacy in the Vatican can be a good American citizen, there is no reason to doubt the patriotism of any devout Muslim turning to Mecca for light. Indianness is the key to national integration.

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CHAPTER 2

MUSLIM COMMUNAL ORGANISATIONS

Notwithstanding the fact that this country which derives its cultural heritage from two great exponents on non-violence in human civilisation—Gautam Buddha and Mahatma Gandhi, is now stricken by the pestilence of communal carnage. Without going into the history of partition one cannot escape noting that the argument on which the Congress leaders acquiesced in the partition was that once this was agreed upon, it would bring to an end all communalism, at least in that part of the country which would be in India. It can hardly be gainsaid that communalism has not only survived but has grown since Independence. The tally of communal riots and deaths has been racing upwards.

Apart from the accursed legacy of the partition, the Muslim leaders, preachers and Muslim communal organisations have contributed to the protracted longevity of communalism. Communalism has been instrumental in the promotion of communal organizations which leads to strengthening of communal elements and the weakening of the secular forces. The All-India Muslim League was formed at Dacca on December 30, 1906. The communal politics of the Muslim League, which spear-headed the partition of India in its resolution on March 22, 1940 led to a large-scale communal riots in different parts of India in 1946 and 1947. The Indian Union Muslim League (IUML) was born after the partition of the country and the centre of its activities was Madras. Due to its participation in electoral politics it became a pressure group and political leaders of various parties did not hesitate to ally themselves with the IUML for partisan ends.

It should be remembered that the electoral process in the country, in tead of pulling down the boundary wall of community and religion, has unfortunately made them more pronoun-

ced. Both communal and caste appeals are made to religious sentiments, resulting in even greater mistrust between the two communities. Candidates fighting for seats in Parliament and State legislatures have to depend on minority votes. This development has thrown up a band of leaders from within the Muslim community that can bargain with the power-brokers for loaves and fishes of office. Kerala has shown the way in this respect. It is conducive to secularism and democracy to allow communal parties to fight elections? With the benefit of hindsight all these seem to have proved the correctness of Ayyangar's fears and Nehru's warning in the Constituent Assembly.

In Bombay, the Muslim League is a force to reckon with at corporation level as well as in Parliament and Assembly elections. The league thrives on the fundamentalist and conservative idiom such as opposition to the idea of a uniform Civil Code and singing of *Vande Matram* and supporting the inclusion of Urdu in the VIIIth Schedule of the Constitution. It may be mentioned that the question of the singing of *Vande Mataram* accentuated tension which culminated in Poona riots.

The Jamaat-e-Islami was founded on September 25, 1941 by Abul Ala Mawdudi, about eighteen months after the Muslim League resolution demanding a separate Muslim State. He came from a middle class Muslim family which traces its descent to Khawja Moinuddin Chisti. After the partition the name was changed to Jamaat-e-Islami (Hind). It maintains the exclusive character of the community to strengthen the communal identity. The Jamaat postulates that Muslims cannot and should not associate with non-Muslims the impact of which leads to the strengthening of communal elements. The communal activities of Jamaat are mostly confined to illiterate and poorer sections of the community, mostly living in the dark and dingy slums. It exercises a tremendous influence on the Muslim mind. It takes advantage of the misery of the community, not to help it to develop better understanding with other communities but to push it into a shell of isolation. Major portion of donations come from Pakistan and Gulf countries which helps the Jamaat to expand its activities.

"What was uppermost in my mind," Mawdudi wrote in an article in *Tariqun al Quran*, his monthly journal, "was to

keep alive in the Muslims a sense of their separate entity and prevent their absorption in a non-Muslim community." Earlier in his book *Al-Jihad fil Islam* he advocated a *jihad* for the defence of Islam, its honour and for the Muslims as a whole. According to him the real object of *jihad* was to depose *Kufr* from the seat of authority. Mawdudi considered nationalism in India as Hindu nationalism in which Muslims could not be partners.

It is important and necessary to know the Jamaat's ideological position, its subtlety of operation and the impact it has had on relations between communities because in the current atmosphere in the country the Jamaat is making efforts to carry the process of communal polarisation further. For example, after the Moradabad riots in August 1980 sedulous attempts were made, and with a certain measure of success, by the Jamaat to invigorate the process of what may be called Muslim consolidation. The first step it took was to invite Muslim leaders belonging to different political parties on one platform and issue a joint statement on August 14 the day after the Moradabad riots. On the face of it, this was an innocent gesture of protest over a manifestly inhuman action of the police. There was no doubt that a massacre had been perpetrated, but there was no reason to feel that non-Muslims would not be disturbed by what had happened in Moradabad. Why then a protest statement only on behalf of the Muslim leaders, and not on behalf of simply prominent leaders and citizens? The action initiated by the Jamaat made it look like a concern of the Muslims alone, and made them sitting targets of those who wanted to attack the community and who, immediately thereafter, did launch a massive onslaught, with disastrous results not only for the morals of the community but also for the process of national integration. The Jamaat is always keen on promoting a separate identity of the Muslims.

The Sixth All-India Conference of the Jamaat was held in Hyderabad early in 1981. At this conference it was reported that the Jamaat appealed to Islamic countries for financial assistance and for the opening of Islamic banks in India. The tone of the Jamaat conference was set by Moulana Muhammed Yusuf, Ameer-e-Jamaat-e-Islami (Hind) when he outlined the duties and responsibilities of Indian Muslims in

the context of Pan-Islamism. The Moulana harped on their separate identity and more in common with foreign co-religionists than with compatriots. It was also reported that a decision was taken at this conference, which was attended by delegates from Arab countries, to raise India's Muslim population by conversion of Hīndus. Soon after the conference wall posters in Urdu issued in the name of Khizri Shah Hashmi who styled himself "Khalif of Indian Muslims" appeared in the twin cities demanding a separate homeland for the Muslims living in India, its size being proportionate to population. In Hyderabad from a meagre 50 cases of conversion to Islam before independence, the number of conversion had gone up to 500 a year.

When the need is for members of different communities should be brought closer to clear misunderstandings, the Jamaat has insinuated separatism. The Jamaat often argues that they never spread hatred against others or advocated violence. May be they have not done so directly. But what would be the impact on social life if one says that various religious communities cannot live together. The Jammāt postulates to the Muslims that they have been chosen by God to deliver his message to the rest of humanity, which is afflicted by sheer ignorance.

The Kashmiri Muslims have demonstrated their identity and their autonomous character on many crucial occasions. The massive upsurge of Muslim politics in the sub-continent, which culminated in the partition of India, for instance, conspicuously failed to sway them towards Pakistan or its ideology. In Kashmir majority of the people profess Islam, and 90 per cent speak the Kashmiri language. No doubt Kashmiri Muslims react as feelingly to developments in the Muslim world as a devout Muslim does anywhere else. But their tradition, although a part of the concentric circles of the greater traditions of the Muslims in India and the world, have distinguishing features of their own.

Before the advent of Islam, Kashmir had imbibed the essence of Vaishnavism, Buddhism and Shaivism and synthesised their philosophies. The synthesis was in harmony with the spirit of Islam as well. When a whole community is converted, it is bound to retain most of its traditional beliefs and rituals.

Such was the case in Kashmir. The cult of Buddha, the teaching of the Vedanta, and the mysticism of Islam have found a congenial home in Kashmir. The belief of Muslim *rishis* in non-violence, respect for the spirit of renunciation, control over desires and abstinence from worldly pleasures were in harmony with Buddhist teachings and practices. The strict vegetarianism of the Muslim *rishis* and their devotional style of worship were similar to Vaishnav practices.¹

According to a legend, the practice of Aurad-i-Fatina (mass singing in the mosque), resembling the Hindu Kirtan, was approved by Syed Ali Hamdari who, it is said, received divine sanction for it in a dream. As Abdullah Yusuf Ali points out in *Modern India and the West*, "the worship of the 'holy' hair of the Prophet at the shrine of Hazratbal, which is not known to be done elsewhere, is another instance of Islamisation of a Buddhist practice and Kashmirisation of Islam". Kashmiri Muslims remain Kashmiri as well as Muslim. Strange as it may sound Kashmiri Muslims do not slaughter cows nor eat beef.

The religion of Kashmiri Muslims has not suffered the least because they use Kashmiri language instead of Urdu and abstain from cow-slaughter and beef eating. Over the years, one noteworthy and happy feature of life in Kashmir was communal harmony. The Hindu and Buddhist minorities did not feel insecure. Even when the fire of communal hatred was raging through north India at the time of the partition of the sub-continent, Kashmir was free from communal incidents. Kashmiri Muslims kept guard over Hindu temples and Buddhist Viharas against any attacks. Mahatma Gandhi described Kashmir as "a ray of light in the darkness of communalism."

The traditional form of Islam in Kashmir is called "Tablik-ul-Islam". The Tablik interpretation of Islam is secular in character. Tablik was an outcome of the Sufi tradition. It represented a compromise with the existing Hindu myths and rituals in the valley. The Tablik was organised by village *pirs* who in many areas became more important than the local mullahs. These *pirs* were popular among the Hindus also. Incidentally, there were a number of Kashmiri saints of the Medieval period, revered by both Hindus and Muslims in the valley. Foremost among them was a sixteen century mystic, a woman named Lal Ded who like Mira was supposed to have

gone around singing praises of her beloved. Lal Ded was a Hindu and her beloved according to tradition was a Muslim Sufi *pir*.²

The Jamaat-e-Islami of Kashmir, which is not affiliated to the Indian Jamaat, is the one organisation which is doing the greatest damage by preaching sentiments that go against the basic secular traditions of the Kashmiri. Though ostensibly a religious body meant to preach Islam as they interpret it, the Jamaat is not only highly politicised, but openly anti-secular and anti-national. They are gradually trying to poison the minds of Kashmiris in cities, towns and villages. If one listens to the sermons they preach in village mosques, attends their study circles and just go through some of their literature which they circulate so widely, he would be convinced that they are sowing the seeds of discord and hatred.³

The Jamaat in Kashmir first started organising itself in the Doda district of Jammu. In the valley its only stronghold was Sopore, a prosperous town inhabited mostly by Kashmiri Muslim businessmen dealing with apples. Slowly, the organisation spread to Anantnag and Kulgam, and in Srinagar city too the Jamaat has much larger support today. The Jamaat are not short of funds. Their money comes from Pakistan and the Gulf countries, particularly Saudi Arabia. Today, the Jamaat has a network of about 200 fairly efficiently run schools in the valley and study circles and mosques are used to propagate anti-secular and anti-national ideas, for example, Indian Constitution cannot apply to Muslims; a Muslim can only live in an Islamic State; the Indian army is occupying a Muslim State by illegal force, etc.⁴

The Jamaat do not command support from the Kashmiri Muslim peasantry because of a very interesting contradiction. The Kashmiri Muslim peasantry is a great believer in shrines—astan parast, maqdoom Sahib, Dastgir Sahib, Hamdan Sahib, etc. The Jamaat, with its fundamentalism is completely opposed to such reverence for shrines, and preaches against their worship. The Jamaat has been more successful among professional classes, teachers, engineers, businessmen, doctors and bureaucracy.⁵

Jamaat's political threat came in the 1971 Lok Sabha elections when it polled quite heavily in a few constituencies

although they did not win any seat. Mohammad Shafi Qureshi, who became a central minister had some difficulty in defeating his Jamaat opponent Hakim Gulam Nabi. In the 1972 Assembly elections the Jamaat won five seats. Numerically, five seats were insignificant; but the impact was powerful. The Jamaat continued to expand and spread its poison with a fervent intensity.⁶

The relations between the Jamaat and Sheikh Abdullah were never friendly. The first major confrontation between them occurred in 1968. Sheikh Abdullah called for a State People's convention to discuss the Kashmir issue. All sections of opinion were invited to participate in the debate including Jamaat which accepted the invitation and attended it. The Sheikh wanted the convention to adopt a resolution that "the future set-up of Kashmir should be on a secular basis." Except the Jamaat, which opposed the resolution vehemently, everybody else accepted the resolution. This led to the complete break down of relationship between the Sheikh and the Jamaat.⁷

Jamaat-e-Tulba, the youth organisation, is reported to be rabid anti-secular and anti-national. Its leader Sheikh Tajmul Islam has been exhorting Kashmir Muslims to work for the "liberation of Kashmir" from "Indian subjugation". Not merely does he openly advocate the merger of Kashmir with Pakistan, but he has said again and again to anyone who will listen that the Indian army in Kashmir is like the Russian army in Afghanistan. His speeches are communal in tone and he goes out of the way to pour venom on Hindus. The Jamaat-e-Tulba has foreign links and according to reports a lot of money comes to it from abroad. This organisation has become very powerful after the death of Sheikh Abdullah, who kept its activities under control. It may be mentioned that a world Islamic youth conference scheduled to be held in Srinagar on August 22, 1980 was banned by the Jammu and Kashmir Government and its organiser Tajmul Islam was arrested and put behind the bars.⁸

Sheikh Abdullah was a tall man and even when he defied New Delhi and sought the support of the people in the State, he never allowed communal or anti-Indian elements to have the upper hand. Dr. Farooq Abdullah, practically driven

by New Delhi to the wall, has at times played the Muslim card. This had created a favourable climate for the Tulba to flourish.⁹

There is no doubt that the Jamaat-e-Tulba has become more powerful than before. It continues its propaganda quietly, under the cover of preaching religion. It tries to spread unrest and uses cyclostyled literature to exhort the Kashmiri Muslim youth to "have nothing to do with Indian or its citizens, the Hindus." A women's wing has also been started and there is an effort to "impose Islamic fundamentalism on them by, for instance, forcing them to wear *burkha*. Some women who did not pay much attention to the use of *burkha* were beaten up by volunteers of Tulba women's wing.

The Jamaat and the Tablik came to a head-on clash after the hanging of Bhutto. Nearly 147 villages considered to be Jamaat strongholds were set on fire by angry mobs protesting against Bhutto's hanging. However, their differences were patched up at the intervention of "experts" from Pakistan. Unlike his father Dr. Farooq Abdullah does not have the capacity to control communal passions once aroused. For example, the one-day cricket match between Indian and the West Indies held at Srinagar had shown to what extent the influence of the Jamaat has grown. Even the National Conference members, present at the stadium in large numbers, connived with the Jamaat-e-Tulba miscreants in shouting down the Indian team. It is reported that the leaders of the Jamaat and the Tablik have patched up their differences and work together for the spread of Islam in Kashmir.

The danger in Kashmir today springs not only from the growth of extremism but from the attempts being made by various anti-Indian groups in the predominantly Muslim valley of Kashmir to whip up communalism and spoil Hindu-Muslim relations. As many as seven Islam-oriented groups are spreading communal poison among the Muslims of the valley. With minor variations, they speak the same language of communalism and secession. Even small and irrelevant issues are magnified and exploited to mislead the Muslim population and sow suspicions in their minds about Indian secularism. Recently there was a total "bandh" in the valley and considerable violence in Srinagar to protest against the filing of a writ

petition for banning the Holy Quoran, in the Calcutta High Court. Life in the entire valley came to a halt.

The surprising thing is that while the writ petition in the Calcutta High Court did not evoke any reaction among Muslims in the rest of India, it had a devastating impact on the Muslims of Kashmir who have been known for their tolerance and gentle behaviour. This is an indication of the extent to which fundamentalist propaganda has influenced Kashmiri Muslims. While under the Resettlement Bill (passed into an Act on March 25, 1982) steps are afoot to bring back Muslims who had migrated to Pakistan 37 years ago and even grant them full citizenship rights in Jammu and Kashmir State, yet lakhs of Hindu refugees from Pakistan in Jammu and Kashmir have not been given citizenship rights in the State; they can vote for the Lok Sabha but not for the State Assembly! The opposition to the anti-national Resettlement Act is being decried as an example of the persecution of Muslim community. The Hindu population in Kashmir valley has been declining continuously. It was one lakh and ten thousand in 1971. It came down to 73 thousand in the 1981 Census, for reasons that are obvious. The hold of communal and anti-Indian organisations is getting stronger.

The secessionist Peoples League, Mahaze Azadi and Jamaat-e-Islami had organised trouble in more than one spot in the downtown areas of Srinagar on 14 August 1985. Their activities on 14 August that happened to be Pakistan's Independence Day, included Ceremonial parade and celebration of the occasion by bursting crackers, hoisting the Pakistani flag inside the Kashmir University campus the Government Polytechnic College, the M P Higher Secondary Institution and some other schools and colleges; and raising anti-India slogans and also engaging the local police in pitched battles for which they had obviously been well prepared. That the disturbances took place not only in the capital of the State but elsewhere too and especially in Sopore, the stronghold of the Jamaat is also significant. Chief Minister, G.M. Shah can hardly escape the responsibility of letting such a situation to be precipitated in his State. He replaced Dr. Farooq Abdullah not only because the latter lost his majority in the Vidhan Sabha but no less importantly, on account of his being rather ineffective in tackling

the anti-national forces in Kashmir. But the high hopes which were raised by G.M. Shah's assumption of Office, have been belied and the secessionist Muslim communal organisations seem to be enjoying a field day in the valley.

It cannot be denied that Kashmiri secularism has been undergoing a steady erosion over the years. The freedom struggle began in the thirties under the umbrella of the Muslim Conference. Sheikh Abdullah converted it into the National Conference. Such was his secular bonafides at that time that when he became the head of the administration under Maharaja Hari Singh, he won the hearts of the Dogras of Jammu who had been traditionally with the princely dynasty. The welcome the Sheikh received in Jammu city and other parts of the Hindu majority province was unforgettable. Much to the credit of Sheikh Abdullah the Hindu minority in the valley was safe even when Hindu-Muslim riots occurred in India and the Sheikh and his followers did a magnificent job maintaining communal harmony. It must be said that the communalism that was witnessed during the last election campaign did not exist at all. But things started changing soon after.

The special provision under Article 370 of the Constitution with respect to the State of Jammu and Kashmir has produced more adverse results than beneficial ones. It has created the feeling that the Muslims of Kashmir do not feel any marked kinship with the rest of India. If Article 370 had not been there, it would have led to closer emotional integration between Jammu and Kashmir State and the rest of India. A noticeable feature today has been communalisation of politics by the National Conference and Islamic fundamentalist groups in the valley; the latter are clamouring for a plebiscite.

The National Conference is not satisfied with Article 370 but its demand is something more. It wants all power vested in the State except defence, foreign affairs and communications, and the Supreme Court ceases to have any jurisdiction beyond Pathankot. Even if the demand is only for more autonomy it is basically a communal one. If Kashmiri Muslims feel that they could be safe only when the State's pre-1953 status is restored, the Hindus of Jammu and the Buddhists of Ladakh might also legitimately demand that their safety should not be

endangered. In that case, Jammu may demand for a separate statehood and Ladakh, the status of a Union Territory.

The other important Muslim communal organisations in India are : Majlis-e-Mushawarat; Jamiatul-Ulema-e-Hind (Mufti Atigur Rahman group); Tamir-e-Millat; Majlis-e-Ittehadul Muslimeen; Amarat Millat Islamia; and Muslim Majlis. Besides these organisations, there are two militant Muslim organisations, namely the Razakars and Khaqsars. Razakars are active in Hyderabad city and the Khaqsars in some areas of Uttar Pradesh.

The Majlis-e-Mushawarat is a federation of various Muslim organisations and a representative of the various schools of thought. It is composed of the Indian Union Muslim League (IUML), the Jamiatul-Ulema-e-Hind, the Jamaat-i-Islami, the Tamir-e-Millat, the Ittehadul Muslimeen, the Muslim Block (M.Ps.) and the Muslim Majlis. Representation is also given to the Shia Community and the Barelvî school. The Mushawarat was established under the leadership of Dr. Syed Mahmud in 1964. The Mushawarat wanted to seek the support of all parties including the Jan Sangh to achieve communal peace and harmony and secure justice for Muslims in cultural, political and economic fields. Ironically, however, instead of being instrumental in the promotion of communal accord, the Uttar Pradesh branch of the Mushawarat gave communal colour to several issues, such as 1965 trouble at Aligarh and the Urdu issue. It raised the bogey of "Islam in danger" and that of the culture phobia.

Communal conflict has become a regular feature in Hyderabad, the sixth largest metropolis of India. Ever since 1978 when communal tension first displayed its ugly countenance in the city, not a single election passed, save one occasion, without incidents of arson and looting. Five of Hyderabad's 13 Assembly constituencies are classified as trouble-prone areas, where the Hindu-Muslim balance of voters is precarious enough to lead to riots. Demographic pressure, economic under-development and religious revivalism have become only the incidental backdrop for communal conflict which is generated and directed by electoral politics. Some of inner wards of the walled city like Charminar and Yakutpura,

have a density as high as 41,000 persons per square Kilometre.¹⁰

As the population increased over the years, the pressure on land became intense. And religion entered the picture. For, both the A.P. Vacant Land in Urban Areas Act 1972 and the A.P. Urban Land (Ceiling) Act, 1976, exempt "religious land" from their purview. Thus establishing a religious institution became the easiest way of usurping land. The real estate *dadas*, Hindus or Muslims, first acquire vacant land, then set up a temple or a mosque and eventually a new colony emerges.¹¹

In recent times many such clusters of houses have come up in both Hindu and Muslim localities. The time it takes for the State to regulate the colony is, of course, dependent on the proximity of the *dada* to the powers that be. Thus the phenomenal growth of places of worship and the consequent generation of religious fervour has behind its "spiritual facade" a well organised racket in real estate.¹²

Organised rigging has become an integral part of electioneering in Hyderabad. The percentage of voting in some constituencies, mostly in Muslim pockets, is significantly higher than the rest of the city.

Majlis-e-Ittehadul Muslimeen (MIM) is a strong Muslim communal organisation in Hyderabad. The old city areas beyond the Musi river on the southern side are the communally hypersensitive localities though the July 1981 trouble began after an attack on a religious procession in Golconda fort. In that area the Muslim Community forms around 55 per cent of the population residing in the narrow crowded alleys with pickets of Hindus in a few localities. The post election clashes have shown that religious disharmony has polarised the old city area voting patterns into strictly communal lines and the tension has become a game of politics. One of the MIM legislators publicly suggested that there should be a separate Muslim State, within each State of India. The Muslim Community residing in this area, mostly illiterate, belong to the lower economic class and are exploited by the MIM. The fanaticism of communalism is evident from the fact that there are three constituencies in the old Hyderabad city area which are impregnable strongholds of the MIM—Charminar, Chandrayangutta and Yakarpura. Apart from election clashes, communal riots

have been taking place in the city during Hindu festivals, almost every year since 1979.¹³

A separate party known as Muslim Majlis was established in April 1968. The declared aims and objectives of the Majlis are to maintain the independence, integrity and honour of India, to develop unity and tolerance among Muslims and close co-operation with MIM in matters relating to the well-being of Muslims.¹⁴

All these organisations view the Muslims as a monolithic well-knit and homogenous community, basically conservative and fundamentalist in their ideological postures and political approaches. The manipulation of religion and religious idiom reinforce communal identity and solidarity. Some of these organisations, with the help of Gulf money, have taken active interest to convert Hindus to Islam and also encouraged illegal immigration of Muslims from the neighbouring Muslim States to increase Muslim population in India.

In the memorandum submitted by 45 Muslim M.Ps. to the Prime Minister in November 1982 listed the Vishwa Hindu Parishad and the RSS as being communal and demanded that they should be banned. The memorandum made no mention of the Muslim communal organisations which have been preaching communal identity and hatred and encouraging the Muslims to revert to their pre-partition game. It is presumptuous on the part of these Muslim legislators to seek to curb Hindu religious and cultural organisations in India where the Hindus comprise of 82.6 per cent of the total population. It is like asking for a ban on Islam in Arabia or on Christianity in Rome.

It may be mentioned that the Hindu Mahasabha was founded by Lajpat Rai in 1925 and the RSS by Dr. Hedgewar the same year to counter-balance the Muslim Communal organisations, namely the Muslim League and the Khaksar party. Subsequently, the Arya Samaj, the RSS and Jan Sangh and the Vishwa Hindu Parishad appeared to protect the unity and integrity of our country, our people and our culture. These organisations are not opposed to the Muslims on the religious plane at all. They believe that everybody is equally free to follow his religion. They are, however, opposed to the demand for special rights or privileges on grounds of religion

or community. They insisted that religion should not divide a person's allegiance to the nation. Some of the Muslim organisations give enough cause for resentment. The more aggressive Muslim communal organisations appear to be, the greater will be the opposition from the RSS and Jan Sangh. The conundrum of the subcontinent's past is too recent to be forgotten.

If socio-economic and political tensions strengthen Muslim alienation, the community's own efforts to preserve its distinctive culture, often in ultra-conservative ways, further isolates it. Muslim society in India is dominated by conservatives, the mullahs, the religious ulemas or priests, and the madrasahs where religious preachings are imparted to young boys. A.R. Sayed of the Jamia Milia Islamia in Delhi says that the ranks of the ulema, who exercise a disproportionate influence on the Muslim community, are filled with people drawn from the lower socio-economic rungs and they lack the intellectual sophistication required to free Muslim society from the rigid religious moorings.¹⁵

The Imam of the Lucknow Idgah, one of the most important leaders among north Indian Muslims, puts it explicitly: Every politician talks and propagates secularism, but politicians say one thing in public and in practice they do the reverse. If politicians have delivered anything, it is communal tension. Ishrat Ali Siddqui, editor of the Lucknow daily, *Quami Awaz* says: We can stop this growing tension if politicians are somehow prevented from exploiting frayed tempers for their narrow ends.¹⁶

Speaking about the activities of Muslim parties and organisations, M R.A. Baig said: A considerable number of parties and organisations have come into existence which not only keep anti-Hindu sentiment alive but instil in the Muslims a sense of separate identity. Of these organisations, the Jamaat-e-Islami is perhaps the most active and best known. How harmful such organisations are to the Muslims themselves needs no emphasis. Moreover, such a combination of factors has made Muslim activity merely reactive, in that instead of having any positive movements, political, cultural or social, Muslims now merely react to Hindu moves and actions, communal or secular.¹⁷

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CHAPTER 3

POLITICS OF MUSLIM PERSONAL LAW

Bernard Shaw stressed a fact of life when he wrote: "A man defends his marriage because he is really defending his pleasure. The woman is more vehement on the same side because she is defending her only means of livelihood. To a woman without property or marketable talent, a husband is more necessary than a master to a dog." Imagine the plight of the poor woman when the law is also not on her side.

Women in Hindu, Muslim and Christian communities, or Parsee women for that matter, labour under serious handicaps and injustice. Muslim women can be talaqed instantly, and thrown into the streets by whimsical husbands. They suffer many handicaps in matters matrimonial, particularly in divorce, maintenance, inheritance, etc. The various personal laws provide grounds on which divorce can be sought. Under the Parsee Marriage and Divorce Act 1926, a petitioner can seek divorce, if the defendant has voluntarily caused grievous hurt to the plaintiff. Under the Indian Divorce Act cruelty is only a ground for judicial separation.

In the case of Christians, the husband has only one ground to seek divorce, namely adultery, adultery with cruelty, desertion with adultery, etc. There have been cases of wives suffering extreme cruelty but not getting divorce because the other charge of adultery could not be proved. Christian women under the Indian Divorce Act are not entitled to divorce on grounds applicable to Hindus or even Muslims.

The Muslim personal law does not recognise adoption whereas the Christians have no adoption law. The widow of a Parsee dying childless can adopt a *palak* for the purpose of performing certain religious rites. Under the Hindu law of

1956 either a man or a woman can adopt a son or a daughter.

The adoption bill of 1972, which would have been applicable to all Indians irrespective of their religions did not become a law.

Those who defend personal law should realise that what suited a particular age or certain social conditions has lost its relevance today. Polygamy and Polyandry had been in vogue from pre-historic times. The Old Testament speaks of polygamy among the Israelites even before the time of Moses. The Mahabharata mentions the polyandrous marriage of Draupadi who had five husbands. Polygamy was allowed under the Hindu personal law till the Hindu Marriage Act, 1955 was passed. Historical, social and cultural factors were responsible for such a custom.

Muslim Personal Law, it appears, has become the main issue of Muslim politics in India. From time to time conventions and meetings are held to demand that the Government should keep its hands off Muslim personal law else the Muslims all over India would raise a banner of protest. The traditional Muslim leadership which mainly consist of orthodox mullahs held the sway in these conventions and meetings. The government has made no declaration of its intention to propose any change in the Shariat law as it operates in India today. It appears as if the traditional Muslim leadership has acquired a vested interest in the issue.

All Muslims in the world, whatever sect they belong to, accept the Koran as the holy scripture and a source book for all their laws. The Muslims further believe that the Koran was revealed by *Allah* to the Prophet and hence all its laws are divine and immutable. The Koran does contain portions either hinting at, or giving details of, the laws of marriage, divorce, inheritance as well as those pertaining to crime and punishment. The Shariat law as it is known and practised today was compiled more than a hundred years after the death of the Prophet. The broad outline of the Shariat was, no doubt, drawn from the Koran, but for details and the newer issues which arose from time to time, in differing circumstances, recourse had to be made to sources other than the Koran like the Prophetic traditions or practice (Sunna), consensus (ijma), and lastly creative interpretation (ijtihad).

It must be remembered that Prophet Mohammad was a

social reformer and an ardent champion of women's rights. In Arabia, where the Prophet was born, an Arab could have any number of wives, and as soon as daughters were born they were buried alive. Islam does not want to hinder the progress of women. Ameer Ali wrote : The reforms of Prophet Mohammad marked a new departure in the history of eastern legislation. He restrained the power of divorce possessed by husbands; he gave to women the right of obtaining a separation on reasonable grounds and towards the end of his life he went so far as practically to forbid its exercise by the men without the intervention of arbiters or a judge. He pronounced *talaq* to be the most detestable before the Almighty God of all permitted things. It is only the closed and feudal nature of Muslim society, especially the moulvis, ulemas and conservative Muslims—self-appointed caretakers of Islam in India, form the traditional block to progress.

The Muslim theologians had to interpret the Koranic verses in the light of new developments and various prophetic traditions and practices and as a result there never was unanimity on all the issues between the most eminent Muslim theologians (ulemas). There arose four schools of jurisprudence among the *Sunnis* themselves besides the *Shia* schools, each school differing from the other; the difference arose practically on every issue from marriage and divorce to inheritance and crime. Some of the important features of the Shariat law over which there is broad agreement among the various schools of jurisprudence are: Marriage is contractual and a man has permission to have four wives; as the marriage is contractual it can be dissolved by the party—some schools, however, give this right to divorce to men only (the Hanafite school which is followed by the majority of Indian Muslims does so); children of the predeceased son, that is, the grandchildren of the deceased's father will be deprived of their right to inherit their grandfather's property; a thief's hands are to be cut off (although there is no agreement as to what extent of theft and in what circumstances); stoning the adulterer and adulteress to death (although the Koran prescribes only 100 lashes and does not mention stoning to death, it is difficult to establish how this punishment came to be prescribed later); and life for life, tooth for tooth and eye for eye if blood money or any

other form of compensation to the next of the kin or the sufferer himself is not acceptable. Apart from these there are many other aspects of social and religious life which are dealt with by the Shariat but they do not fall within the purview of the present controversy regarding the Muslim personal law.

With regard to criminal matters like theft, murder and adultery, the British abolished the Islamic laws pertaining to them before the end of the last century. There was not much opposition to their abolition from the Muslims although some ulemas did protest. The British introduced their own penal code which was based on Roman law. Some theologians like Maulvi Nazir Ahmed supported the British and translated the new penal code into Urdu. However, the British did not touch the marriage and divorce laws or the laws of inheritance except where it was thought to be absolutely necessary. Thus Tahir Mahmood, in his book "Muslim Personal Law" says : As regards Muslim law, in letter addressed to Lord Mansfield, Warren Hastings asserted that it was as comprehensive and well-defined as that of most States of Europe.

The other considerations for retaining the personal laws of various communities by the British were, among others, that it would be a wanton tyranny to require the obedience of Indians to other laws of which they were wholly ignorant; the Islamic and Hindu personal laws were found to contain nothing harmful to the authority of the British Indian Government. The British, however, did enact legislations like the Mopllah Succession Act of 1918 and the Cutchi Memons Act of 1920 to regulate certain practices prevalent among those communities.

A.A.A. Fyzee, an internationally recognised authority on Islamic jurisprudence was the first Indian Muslim courageous enough to contend that Muslim law in India today is not prevalent as a legal of divine commands, but as a piece of legislative enactment by the British and is known as the Shariat Act of 1937. Ever since the mid-nineteenth century the Muslim law was being reformed slowly and it fell under the influence of British legal thought, and an independent legal system substantially different from the Muslim law.¹

Whereas under the Muslim law the penalty for apostasy was not just the loss of rights in property, the automatic

dissolution of the marriage, etc., but death, the Caste Disabilities Removal Act of 1850 banished all laws and usage which impaired the rights of property, inheritance or any other rights of an individual 'by reason of his or her renouncing, or having been excluded from the communion of, any religion, or being deprived of caste.' The jurisdiction of Qazis was abolished, and where the personal law of different communities continued it was henceforth to be administered by magistrates. Muslim criminal law was replaced by the Indian Penal Code of 1860 and the Criminal Procedure Code of 1898. Muslim law of evidence was replaced by the Indian Evidence Act of 1872. This put a host of matters of personal law—the presumption of death, the legitimacy of children, etc.—under the purview of modern legislation. In the same year the Contract Act was enacted and applied equally to all Hindus and Muslims alike. The Married Women's Property Act of 1874; the Majority Act of 1875; the Transfer of Property Act of 1882; the Guardians Wards Act of 1890; the Indian Succession Act of 1925 were enacted Child Marriage Restraint Act of 1929, laid down the minimum age for marriage.

Muslim law left unfettered, complete and exclusive rights to the husband to divorce his wife, and confers none on the wife whatsoever, save what the husband may in his discretion grant her—the Dissolution of Muslim Marriages Act of 1939 began the process of redressing the balance by enabling the wife to initiate the proceedings too on specified grounds. Principles of equity from English law were gradually grafted on to the Muslim law of gifts.

This process of reform and integration stopped with the partition. Apart from a few stray extensions—section 125 of the Criminal Procedure Code on the maintenance of a divorced wife, the Special Marriage Act of 1954 which gives all couples the option to register their marriages under this Act and thenceforth be governed by common, modern, secular laws—the country abandoned all efforts to update or reform Muslim law, or to move towards a common code. As a result anomalies continued. A Muslim husband remains free to throw out his wife by pronouncing the word "talaq" thrice while a Christian couple even if they amicably agree that their marriage is not

workable must wait for three judges of a high court to confirm their divorce.

Educated Muslim women and men have been agitating for secular personal law that would ensure the same rights for Muslim women as their Hindu counterparts have been enjoying. A large number of educated and liberal minded Muslims who are well versed in the Koran say that the Shariat can only be applied in an Islamic utopia—not in a secular State. Another area where Muslim personal law is under attack is the lack of uniform legislation. The practice varies from sect to sect and even from country to country depending on the *quazi*, *zamat* and family. In most cases, the ruling is in favour of the men.

A.A.A. Fyzee, in his analysis wrote : "The law of divorce, whatever its utility during the past was so interpreted that it has become the one-sided oppression in the hands of the husband. And almost everywhere Muslims are making efforts to bring the law in accordance with modern ideals of social justice."² Inaugurating the Maharashtra State Muslim Women's Conference in Poona on 27 December 1971 he said : the Muslim personal law as practised under the Shariat Act had brought untold miseries to Muslim women and should be discarded forthwith in favour of a common civil code. He blamed Muslim political and religious leaders for having sought to keep their womenfolk in "perpetual slavery" by raising the bogey of interference in religion whenever a reform of the Muslim personal law was demanded. Did we know that presiding over this Maharashtra State Women's Conference Begum Sharifa Tayebjee said, "If Rasul Allah is to appear in person before us he would roll his head in shame over our performance."³

Fyzee wrote a pamphlet on the *Reform of Muslim Personal Law* in which he emphasised that the Muslim personal law cannot be considered as Shariat because Islam is not the State religion ; the judges are not Muslims ; and there is no Caliph to enforce the Shariat. Indian jurisprudence does not recognise that Islamic law and its philosophy should be the predominant source of Indian law. India is a secular democracy where all categories are declared to be equal and no one law or religion is given priority over another. If, therefore, a law is found to

be unjust, it can be changed by legislation to conform with our present day notions of what is justice and equity. The Islamic Law of Evidence or the Islamic Criminal Law have been completely abolished and substituted by new laws.⁴

M.R.A. Baig, an authority on Islam wrote : Nothing has defied human comprehension more than the *hadiths* and verses regarding women and polygamy. In regard to women, whereas the Koran (2.225) clearly says, "Women have rights similar to those against them in a just manner," yet, as already brought out in Muhammad's last "Haj Pilgrimage address," he stated that God, mind you God, the Merciful the compassionate, gave men the right to chastise their wives. He also laid down that, in law, one man's word was worth that of two women. In regard to polygamy, the Koran (4.3) permitted four wives; but in the very same verse a rider is added that if a man cannot treat all the four equally, he should marry only one.⁵

Polygamy had been permitted in the Koran to fill the need of the times. In that century the Arabs could marry any number of women and sexual vices were widely prevalent in the Arab society. Moreover, the male population had been depleted by war and the number of female population having increased due to war widows and women captives it was necessary to help women economically and provide them shelter and food. Under these exceptional circumstances the number was restricted to four wives with stringent condition that the husband should do equal justice to all his four wives. Polygamy was sanctioned by Koran and sanctified by the example of the Prophet, who had nine wives.

Slavery was common in Arabia at that time. The Koran and Prophet recommended that Muslims treat their slaves well, that they refrain from forcing their female slaves into prostitution. But both Koran and the Prophet assumed that slavery as an institution would continue. For instance, the Koran in laying down that a Muslim may have upto four wives at a time, often refers in addition to slave or female concubines that a man may keep concubines on whose number, of course, no restriction is placed.

The Muslim personal law which sanctifies the right to four wives has been dubbed as a reactionary law even by Muslim

scholars and jurists. Muslims in India counter this by quoting the Koranic injunction that no man shall marry a second time unless he has the consent of his first wife and can treat all wives equally. In this connection Seema Mustafa wrote : But who is to determine this and who is there to ensure that he treats "all wives equally"? The first wife, if she objects to her husband's other wives, has to seek justice in the ordinary court of the land. Does the Indian Muslim woman has the courage to make such a private issue public? And do the lower middle-class women who form the bulk of the victims, have the money to engage a lawyer and pay the litigation expenses? There are hundreds of cases, many of whom I know personally (as I am sure every Muslim in this country does) where the man has taken full advantage of this unrealistic proviso and re-married without even bothering to consult the previous wives.⁶

The practice of polygamy and the husband's unilateral right of triple *talaq* have resulted in grave injustice to many Muslim women. In course of their tours of the country, the National Committee on the Status of women found that excepting some educated middle-class Muslim women, the poorer sections of Muslim women in Uttar Pradesh and Jammu & Kashmir emphatically demanded for the banning of polygamy. This Committee observed : Ignoring the interests of Muslim women is denial of equity of social justice and therefore, there can be no compromise on the basic policy of monogamy being the rule for all communities in India. An eminent Muslim jurist while speaking about polygamy and *talaq*, *inter alia* observed :

- (a) We give little justice to the first wife when the husband marries a second wife without her consent.
- (b) We give no protection to a wife from the sword of democles hanging over her head by the unfettered right of the husband to divorce.

The pride in the Islamic legal system is no longer as justified as it once was, as other systems have overtaken it. The Muslim personal law, once radical and far ahead of its times, is today, in areas like the rights of women, regressive. A law that legalises polygamy in this age needs to be reviewed and changed.

Several Islamic countries have already been able to bring about radical reforms in the personal law.

And for solving the aforesaid problems, among other things, he suggested amendment of the law to the following effect: (i) that no man shall be able to marry a second wife without a good cause to be determined by a Court of conciliation and (ii) that the triple *talaq* shall be abolished by law, and a proper conciliation procedure be adopted whereby the divorced wife and her children are protected. The remedies suggested are perhaps the barest to give equality of treatment and social justice to thousands of Muslim women and children in this country. Monogamy should be the rule for all communities in India; and the unilateral right of divorce of a Muslim husband should be abolished. Parity of rights for both parties regarding grounds for seeking divorce as suggested by the National Committee on the Status of women in India should be made applicable.

Enlightened Muslim opinion seems to favour abolition of polygamy. But reformers cannot assert their views for fear of incurring the wrath of the so-called fundamentalists who have a vested interest in keeping the Muslim masses under the spell of the outdated Koranic laws. Polygamy has been prohibited in many Muslim countries. In others, such as Morocco, Tunisia, Syria, Turkey and Iran several restrictions have been imposed to give justice to Muslim women. In countries like Singapore, Malaysia, Indonesia and Ceylon the husband cannot take a second wife without first referring the matter to a court of conciliation. Pakistan too did more or less the same thing when through an ordinance it forbade a Muslim husband on pain of punishment from taking a second wife except with the previous permission in writing of the Arbitration Council. Under the Pakistan Muslim Family Laws Ordinance, the chairman is empowered to set up an Arbitration Council for the purpose of bringing about a reconciliation between the two parties and giving the wife a hearing. In India even this little relief from the oppressive law is denied to the woman.

Reform of Muslim personal law in Indian conditions is all the more necessary for national integration. A secular democratic State cannot allow one community, among its citizens, to have four wives, divorce their wives at will and refuse to

pay maintenance allowance to their divorced wives and children, and at the same time enforce legally on other communities to practice monogamy and in the event of divorce of wife, pay the latter maintenance allowance till her death or remarriage whichever is earlier. It discourages family planning and birth control and retards nation's family planning policy. There are many reports of Hindus desirous of a second wife get themselves converted to Islam. Moreover, it leads to disproportionate increase in Muslim population in the country with dangerous political implications. Did we know that with a view to check population growth, the Bangladesh government has imposed marriage tax on Muslim males to serve as a disincentive for polygamy which poliferates in Bangladesh under religious sanction.

Government servants are not permitted to have more than one wife and more than three children under the Conduct Rules framed by the Government. These rules are equally applicable to the Muslim Government employees who cannot claim exemption on the plea that they are guided by the Muslim personal laws in these matters. Democracy insists that the State is one and its laws are of equal application to all segments of society. M.R.A. Baig wrote : It is difficult for any Muslim to emerge from his house without seeing the red triangle propagating family planning. But in the mosque he is told that birth control interferes with Allah's decree, and at weddings a hadith is usually repeated according to which Prophet Muhammad had said that on the Day of judgment, he would be proud of Muslims with many children.⁷

In our country the Muslim personal law as followed in India declares that if a man marries a fifth wife the marriage is only irregular but not void. By irregular it means that the wife has limited legal rights but the marriage enjoys a full legal status. Conversely, if a woman marries a second husband she is liable for bigamy under section 494 of the Indian Penal Code. A Muslim man, under the law, can marry a *Kitabiya* (women believing in the revealed religion ; it applies to Jews and Christians) but a woman cannot. All this raises serious questions regarding the status of the Muslim women under the law. These apart, polygamy, divorce and non-payment of

maintenance allowance to a divorced woman force Muslim women to prostitution.

Marriage, in Islam, is a contract between the two parties. The woman is protected by the *nikahnama* which contains the dower fixed at the time of marriage (to be paid by the husband to his wife) as well as other stipulations that she might wish to authenticate in the marriage document and which are binding on the husband under the law. But while the Muslim law recognises the women as an equal partner insofar as the actual marriage ceremony is concerned, when it comes to divorce the man has absolute rights. The law pertaining to divorce states: "A Muslim husband of the sound mind may divorce his wife whenever he so desires without assigning any cause." A.A.A. Fyze comments, "such a proceeding though abominable is lawful."⁸ Divorce operates from the pronouncement of *talaq* and the presence of the wife is not at all necessary. This means that any man deciding to divorce his wife can seek out a *qazi* and in the presence of two male witnesses pronounce *talaq*, obtain the divorce document and even mail it to his wife. The *talaq* (pronounced thrice) is irrevocable and there is nothing the wife can do about it. It stands.

The moment the woman is divorced, the wife loses all rights. All she gets is her dower. The husband is to pay her a maintenance allowance for only three menstrual periods, or three months. If she is pregnant then the period is upto the delivery of the child or three months whichever is earlier. The period is known as *Iddat*. The father of the child gives maintenance till he is nine years of age after which the child goes to the father who looks after him/her.

The question here is not whether the wife's blood relatives, namely her sons, brothers, father, etc., can maintain her or not, a point that is being argued currently in relation to the case of Shah Bano. The point is that there is no obligation whatsoever on the husband to furnish her anything after that short period of *Iddat*. This is important in particular because this is so in spite of the absolute, exclusive, unfettered power that the husband has to discard his wife, and because the obligation is to cease irrespective of whether the divorced woman can or cannot find a way to maintain herself. In the traditions the Prophet warns that nothing is more hateful to God than

divorce, that no one should make a sport of it, etc. But these are recommendations. They do not dilute the husband's power in the matter one whit.

When the *talaq* is pronounced thrice and the divorce becomes irrevocable under the Muslim personal law, the divorced couple cannot remarry each other. If they desire to come back together again the law makes it essential for the woman to be married to another man, for this marriage to be consummated, for the second husband to divorce her, and for her to obtain *Iddat* (a stipulated period of about three months to ensure that she is not pregnant) before she can remarry her first husband. It was held that this did away with the oppression of pre-Islamic Arabs who kept their wives in continuous bondage just to prevent them from remarrying. Whatever its merit then, provision in the legal code is thoroughly obsolete now and makes no sense in an age where the custom supposedly justifying the law is totally unheard of. I am making mention of an interesting case from the book of A.A.A. Fyzee. One Ghyasuddin divorced his wife Anisa Khatun in the presence of witnesses. Subsequent to the divorce the couple got together again and in the ensuing years produced five children. They latter divorced again, and Ghyasuddin refused to provide maintenance for the family. The case went to the Privy Council which could not find proof of the necessary intermediate marriage and the remarriage and hence held that the five children born after the first divorce were illegitimate and under the Muslim personal law not entitled to any maintenance.⁹

It is very difficult for the Muslim woman to obtain a divorce. The easiest method is *talaq-e-tawfid* under which the husband can delegate his own right of pronouncing divorce to a third person or to the wife herself. Prior to Islam the wife had no right to ask for a divorce and the relief was provided only by Islamic legislation. The regrettable fact remains that while the husband has unfettered right to divorce his wife, the wife can only do so if she goes to court and proves to its satisfaction that the grounds exist for an annulment of the marriage. Another provision in the law which needs reform is the equation of two female witnesses to one male witness. There is no real

justification for this except the basic prejudice against women inherent at that time, and even today.

The Koran provides the right to divorce for women, which is known as *Khulla*. But there is a snag involved in its operation. The woman has to forfeit her *meher* amount. Muslim law does not make provision for alimony after divorce and *meher* is all a woman gets for her survival. Conditions being as feudal as they are, going back to one's parents is a humiliating affair.

The first judicial blow for the Muslim women suffering from the ravages of polygamy in Islam was struck by Justice Krishna Iyer of the Supreme Court in 1970 in the *Shahulameed vs Subaida Bibi* case (1970 KLT) by invoking for the first time sections 125 and 127 of the Criminal Procedure Code to provide for reasonable maintenance to a divorcee. Since then, there had been a spate of petitions for maintenance in lower courts, leading to a medley of conflicting judgments.

Emphasising the validity of section 125 of the Criminal Procedure Code, Justice Khalid (former Chief Justice of Kashmir and now a judge of the Supreme Court) speaking for the bench in the *Kunhimoyion vs V. Pathuma* case (1976 KLT) in which a Muslim husband challenged the obligation to pay maintenance to his divorced wife, described Muslim personal law as a "legacy of the past which the old masters of this country made for Muslims. Islamic law precedents on this point, according to us, need a fresh look."

A Muslim husband who had to pay maintenance to his divorced wife in accordance with section 125 of the Criminal Procedure Code, went up to the High Court, Kerala asserting that the personal law must have supremacy over the Criminal Procedure Code and that under the personal law he was not obliged to pay any maintenance allowance. Justice Sukumaran in his judgment in the case (1984 KLT 22 A) held that although personal law permitted a Muslim to have more than one wife, refusal by the wife to live with the husband, when he has another wife, is perfectly justified and the personal law must yield to the will of Parliament.

Shehanaz Sheikh challenged the Muslim personal law. Her writ petition was submitted to the Supreme Court on 14 December 1983. Her husband, a Professor of Economics in a

college, gave her *talaq* on September 4, 1983, two years after they were married. Her *meher* which was fixed at Rs. 12,000 was not refunded and her husband refused to even let Shehnaj take along any of her personal possessions or even her *talaqnama*. In her petition, she challenged the constitutional validity of *talaq*, polygamy, purdah, the custom of *meher*, the biased nature of inheritance laws which stipulate that a daughter should receive half the inheritance share received by her brothers, and the custody of children, whereby a son aged seven and a daughter on reaching puberty fall into the natural custody of the father, in the event of divorce. "All these practices which form a part of Muslim personal law as defined by Article 13(3)(a), being violative of fundamental rights should be struck down as constitutionally invalid" she contended. She argued that the *talaq* given to her was invalid because it is in conflict with Articles 13, 14 and 15 of the Indian Constitution. She demanded the framing of a Common Civil Code to replace the Muslim personal law.⁹

The verdict of the Supreme Court in April 1985 in Shah Banu Begum (aged 75 years) case (Criminal Appeal No. 103 of 1981) upholding her claim for maintenance beyond the period of *Iddat* by invoking section 125 of the Criminal Procedure Code caused a spate of protests by fundamentalist sections of the Muslim community, who see the decision as interference in their personal law. Oddly enough, till the case went up to the Supreme Court, no Muslim leader or organisation showed any interest. After the judgment, however, some of their leaders and Muslim organisations were agitated over that they felt had brought into question the rituals of *nikaah* and *talaq*. The verdict had its spin-offs in other places. We give below the real truth of Shah Bano's case reported by Saeed Naqvi after visiting Indore to find out the politics involved in the controversy surrounding the case.¹⁰

A family quarrel between step brothers and sisters and warning Muslim divines looking for an issue, are at the bottom of the controversy surrounding the Shah Bano case. Shah Bano happens to be Mohammad Ahmad Khan's first cousin from the mother's side. His second wife, Halima Begum, is also his first cousin. In other words, Shah Bano and Halima Begum are cousins as well. Shah Bano is totally illiterate; Halima

Begum is only slightly better. From Shah Bano, Ahmad Khan has three sons and two daughters. From Halima Begum, one son and six daughters. The sons from Shah Bano, Hamid Ahmad Khan (52), Saeed Ahmad Khan (45), and Jamil Ahmad Khan (40) are technical assistant in a textile mill, manager in a transport company and branch manager in the Citizen Urban Co-operative bank respectively. The son from Halima Begum, Zafar Ahmad Khan (35) shares his father's thriving legal practice. Both, father and son are among the Indore city's most prominent lawyers.

For years, this enormous triangular family lived in a medium sized *haveli*, a 500 sq. ft. quadrangle enclosed on all sides by a 10 ft. high whitewashed wall; while three sides of this *haveli* are surrounded by narrow and stinking lanes, the front opens onto the main road. The entrance door has on either side nameplates of the two lawyers, rather like epaulettes. The door opens into a long, narrow room, lined with legal books, files. There is a table and chairs at one end of the room and a large garish painting of the Taj Mahal resting on a table at the other. This is the office.

Adjacent to it is the living room followed by an open Verandah and a courtyard, all of the same length and width. At the two narrow ends of these spaces are other smaller rooms. When Mohammad Ahmad Khan's parents were alive there were at times a total of 16 adults and their children living in the *haveli*, even though some of the sons and daughters got married and moved out. At the rear of the *haveli* are a set of small apartments, with two to three rooms and a pockmarked facade with peeling plaster and an uneven stone slab as a foothold to even to 'cross the gutter into a living room, the size of a Kitchen. In 1975 Shah Bano moved out of the *haveli* and after a brief stay in her village Kantaphod, she started living with her younger son, Jamil Ahmad Khan, in one of these apartments attached to the *haveli*.

Largely inspired by the sons, began a series of disputes on the ownership of certain properties and, of course, maintenance. The maintenance suit was won by Shah Bano in all the courts including the famous victory at the Supreme Court. The Supreme Court at its historic judgment directed Shah Bano's hus-

band to pay her a monthly maintenance allowance of Rs. 179.20 and the costs of the appeal amounting to Rs. 10,000.

Since Mohammad Ahmad Khan had appealed under the Muslim Personal Law and lost, he became an instant hero among the more conservative maulvi elements. Some Muslims in Indore maintain that given the history of bitterness between the two wings of the family, Mohammad Ahmad Khan would have resorted even to pagan law if it helped him to win the case. He went in appeal not to uphold the Muslim Personal Law but to win—not so much against Shah Bano as against his sons who, he alleged, have insulted him times without number on the plea of supporting their mother. But then there was another section of opinion, particularly among women, for whom Shah Bano was becoming the symbol of the evolution of women's rights within the Islamic framework.

So the divines started working overtime. How to neutralise Shah Bano? Community pressure began to mount on her and her sons. They would be ostracised by the one and a half lakh Muslims of Indore if they did not recant. Muslim divines from far and wide began to descend on Indore in the pious pursuit of obtaining Shah Bano's retraction. Prominent among the maulanas who visited Shah Bano was Maulvi Abdul Karim Parekh of Nagpur and representatives of Maulana Aşad Madani of Jamat-e-Ulema-Hind. The arrival of "alien" maulvis led to a sub-secretarian upheaval in the city.¹

The local maulvi, Mufti Malwa Mohammad Halid Yar Khan, a man of medium built, possibly in the thirties, wearing an embroidered cap was up in arms. "If Shah Bano hands over a written retraction to Maulana Parekh then Shah Bano's family would be dubbed Wahabis or number 24", he thundered ("Number 24" according to local Muslims is a term used by the Sunni Muslims against those who, in their perception, have joined a renegade sect). According to Zafar Ahmad Khan, the lawyer and Mohammad Khan's son from the second wife, "Maulvi Parekh and others belong to the Deoband school of thought, while the local mufti and, indeed the entire Sunni Muslim community of Indore belongs to the Bareilvi school." If Deobandis get way with Shah Bano's signed retraction, then the entire credit will go to them." The local mufti was determined that this should not happen, said Zafar.

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"They tried everything" said the Mufti, squatting on the floor in his modest room attached to the local Jama Masjid. "They even promised Shah Bano's sons lucrative jobs in Oman," he said. "But they have not succeeded" added the mufti triumphantly. The Supreme Court judgment directs Ahmad Khan to pay Shah Bano two separate sums : Rs. 10,000 as costs and Rs. 179.20 per month as monthly maintenance. By rejecting the judgment as an afterthought will Shah Bano forfeit both these claims ? I asked the mufti. "Rs. 10,000 is the cost she incurred in fighting the case and Mohammad Ahmad Khan should pay that sum" said the mufti. But that directive is part of the judgment. Does the mufti imply that he accepts half the judgment even though it is outside the place of Muslim Personal Law ? The mufti threw up his hands, "we shall see, we shall see."

Seated on inexpensive cane furniture in her small living room, decorated with a photograph of the Kaba and green and blue curtains, Shah Bano runs a bony finger across her wrinkled face. "Most of us read the Koran but do not understand it," she said, without any expression in her shining, light coloured eyes. "I was ignorant when I fought the case all these years. The maulvis have now told us that it would be un-Islamic if I accepted the judgment." But she has already collected a total of Rs. 24,000 since 1975 by way of maintenance even prior to the Supreme Court judgment. Will she return this "*haram*" money ? "If someone has been drinking alcohol all his life and repents in the end, does it mean he has to vomit out all the alcohol he has consumed ?" she replied smartly.

"Shah Bano wishes to have the best of both the worlds" said Zafar Ahmad Khan. "She has made a public statement that she does not accept the Supreme Court decision but her lawyers have filed claims in the court of the First Class judicial magistrate for Rs. 10,000 and in the Court of another First class judicial magistrate for Rs. 179.20 per month." When I mentioned this to the mufti he said the claim for Rs. 179.20 per month would be withdrawn. He was silent on Rs. 10,000. "In fact Mohammad Ahmad Khan has yet to pay Shah Bano Rs. 1,20,000 by way of *mehr* (dower)." This figure had been computed in the following way : the *mehr* agreed to in 1932

was Rs. 3,000 *Kaldars* or silver coins. All that Khan had paid Shah Bano is Rs. 3,000. Each silver coin weighed one tola which is worth Rs. 40 at current rates. Therefore, the total works out to Rs. 1,20,000.

Then the mufti turned upon the father and son team. "They only pretend to have fought for the protection of the Muslim Personal Law," he said. "Did you know that they themselves have fought cases for the maintenance of Muslim women?" He then cited the case of one Shafiqur Rehman whose son had divorced his wife. "Do you know who was fighting the case for the woman's maintenance?" he asked. "Zafar Ahmad Khan" he said thumping a book lying by his side. But in his office, Zafar was thumping the table on another issue. "A few days ago the mufti came to us and requested us to pay the compensation to Shah Bano privately, without any fanfare and allow Shah Bano to make her retraction publicly," he said looking very angry. "The mufti thinks we are a pair of asses!"

Shah Bano is, of course, at liberty to accept the alimony sanctioned, but her request that the verdict be "withdrawn" betrays an innocence of judicial procedure. This incident not only came as a surprise, but it caused grave concern to all those who want to preserve the authority of the judiciary. Although the judgment gave rise to a heated controversy among conservative Muslims, for progressive Muslims, this was the first step towards the emergence of a new Muslim order, in which a woman is placed on an equal footing as a man and not just given maintenance money for *iddat* (period of three months after divorce). It may be noted that while there were diverse views on the subject, many in Indore including a majority of the lawyers are in favour of the judgment, said A.M. Khan Kamil, an advocate; "Even now in Indore there are 400 cases like Shah Bano being fought in the Courts. A large majority of practising lawyers of Indore support the verdict and respect its final conclusions." Another significant point which has been thrown up with this case, he said, was that when the amendment of the Code of Criminal Procedure was made in 1973, there was no resentment. "Why were there no demonstrations at that time—no processions and no cry for a dying Islam? More than eighty such cases have been settled in

favour of maintenance for Muslim women, but no one seemed to notice.¹¹

Commenting on the verdict of the Supreme Court in Shah Bano case, M.A. Latif, a leading barrister of Calcutta said : What then is the net result of the decision in Shah Bano case ? It is nothing more than that a Muslim citizen of the country, just as his fellow Hindu, Christian, Parsi citizens, has a duty to society to see to it that the woman with whom he had once shared many a joy and sorrow is not thrown out as a vagrant. A Muslim husband enjoying a far easier divorce law needs to be reminded of this duty to society all the more. And that is all that the "guilty" Supreme Court judgment does. The duty is not the Court's creation, but is prescribed by the criminal law of the country.¹²

With regard to the condemnation of the verdict of the Supreme Court and opposition to the direction of the Supreme Court, in its judgment, for a common civil code as enjoined in Article 44 of the Constitution by some self-appointed Muslim leaders, M.A. Latif warned the Muslim community against wrong choice of exclusiveness and asked : Will they opt for permanent habitation on an isolated island of minority privileges and permanent minority status, or move towards the abolition, step by step, of the majority-minority distinction in secular matters? The latter road, Latif emphasised, however rough and difficult initially, holds for the Muslims the prospect of permanent gain in a much needed social renaissance which will equip them to face the severest competition on merit.¹³

Agha Fazal, advocate, Supreme Court said : We are citizens of India and if the Muslim personal law clashes with the Constitution we must follow the Constitution. If the maintenance is against the Muslim personal law or Islamic laws, let our women not ask for it. But if they go to court, then the court is bound to go by the law of the land.¹⁴

Nusrat Bano Ruhi, a lecturer in political science in Bhopal wrote : The Muslim theologians tried their best to arouse the masses to agitate against a most just and reasonable pronouncement. That they gave a call to observe "security of the Shariat Day" on the last Friday of the holy month of *Ramzan* speaks for how the unscrupulous leaders who know

little about their own religion play with the religious feelings of the people.¹⁵

Arif Mohammad Khan, Minister of State, Government of India, in a strongly worded speech in the Lok Sabha—timed to coincide with the moving of a private member's Bill by Banatwala seeking amendments of sections 125 and 127 of the Code of Criminal Procedure that would debar courts from granting maintenance of divorced Muslim women, supported the verdict of the Supreme Court. He denied that section 125 touched the personal law of the Muslims and said that it only refers to the maintenance of wife and children which is the task of any society and any civilised person of any community.¹⁶

The vituperative campaign of slender and calumny against the Supreme Court unleashed by Muslim fundamentalists in the wake of the Shah Bano case reached preposterous levels on Friday, 22 November 1985, when Z.A. Ansari, Minister of State held the Lok Sabha floor for two hours to pour scorn on the judgment, describing it as "a mean attack on Islam". His mindless tirade against former chief justice, Y.V. Chandrachud and liberal sections within the community supporting the verdict, which started in the first week of the winter session of Parliament, should have given the Prime Minister an idea of the perils of letting such a self-appointed champion of orthodoxy to hold forth on the topic again.¹⁷

As for Ansari's own credentials to speak on the subject, he gave ample proof when he claimed with all the righteous indignation of his fervour that maintenance to a divorced Muslim women by her former husband "a crime against Islam." A more blatant distortion of the spirit of Islam than this is difficult to imagine, though Ansari claimed during the course of his outpourings that he had devoted 40 years of his life to the study of the Koran ! Whether or not there is any Koranic injunction providing for the protection of the divorced woman by her husband by her "natural family", interpreting the move to secure alimony for the helpless wife discarded at will by her husband as an onslaught on the faith betrays at best a distorted concept of human values. If the Koran, as Ansari himself claimed, is "most flexible and dynamic," even the most devout would find it difficult to accept that the maintenance

provision introduced into the Shariat would alter the "fabric of Islam."¹⁸

Fortunately for Muslim women, the spirited defence of the Supreme Court verdict put up by CPI(M) member Saifuddin Chaudhury showed that Ansari cannot arrogate to themselves the right to interpret the tenets of the Shariat, conforming more to their intolerant perceptions and values than the humanism and equalitarian spirit enshrined in the faith. Ansari admitted it indirectly when he said that the Shariat version of Shah Bano's lawyer that the court relied upon is one of many. If the Shariat admits of differing interpretations, it would be far better to leave it to the victims of such inequitous practices as oral *talaq*, bigamy and *burqa* to decide which one should guide their personal lives as human beings. This, in fact, is Shah Bano's message to her shackled sisters.¹⁹

Former Supreme Court judge, D.A. Desai said on 14 December 1985 that religion has nothing to do with the personal law of any community. Speaking at a meeting organised by the Indian Association of Lawyers in New Delhi, Desai said property rights, divorce, maintenance and other personal rights of people were not in any way related to religion. In a secular State like India society provides protection for destitutes under section 125 Cr. P.C. irrespective of religion. The meeting was organised in view of the Supreme Court judgment on the Shah Bano case which had sparked off a controversy in the country. He opposed any move to exempt any community from the purview of section 125 Cr. P.C. The meeting was attended by Prof. U. Buxi, Soli Sorabjee and a number of eminent lawyers.²⁰

Desai emphasised that the husband has to maintain the divorced wife in the absence of any source of income to her. Criticising Muslim leaders for raking up the issue of maintenance and challenging the authority of the Supreme Court to interpret the Islamic law, Desai said "Judges can also interpret the laws. It is not prerogative of leaders of a particular community."²¹

Soli Sorabjee in his speech said that nobody could challenge the authority of the highest court of the land. It was a right of the judicial authority to issue decrees on any issue. He

emphasised that Muslims should not raise a bogey and see every decision as being against the interests of the community. He pleaded for a uniform civil code saying, "We are living in a secular set up." It would also help to remove inequality in society.²²

Justice V.R. Krishna Iyer, former judge of the Supreme Court, reacted sharply to the attack on the Supreme Court by Ansari, Minister of State, in the Lok Sabha, for the verdict on the Muslim personal law and said in Madras on 22 December, 1985 that it was in very bad taste and inappropriate in parliamentary custom. Justice Iyer described Ansari's outburst as "Muslim fundamentalism finding expression through parliamentary debate, thanks to the softness of the cabinet in allowing its members to mount an attack on a co-ordinate institute—the Supreme Court". Justice Iyer continued, "If Muslim communalism could be so expressed, who knows whether other forces equally communal will not explode, with the Pakistani threat and the Kashmir issue kept alive."²³

Referring to Ansari's indictment of the former chief justice Y.V. Chandrachud, Justice Iyer said that the judgment was that of the court and not of Justice Chandrachud alone. It was a bench consisting of five judges. If any one attacked the judgment, he attacked the authority of the court. If the authority of the Supreme Court can be challenged today, the authority of Parliament could be challenged tomorrow. "The casualty will surely be democracy" he warned.²⁴

Even parliamentary privilege does not permit a minister to impute to the judges of the highest court "ignorance, prejudice and partiality" as has been done by Ansari. By making a mean attack on the Supreme Court Ansari has not only scandalised the highest court of the land but at the same time lowered its authority in the eyes of the people.²⁵

Justice P. Jaganmohan Reddy, a retired Judge of the Supreme Court in his two articles "Bill of Contention, I and II published in the Statesman, April 22 and 23, 1986 says that sections 125 and 127 are the successors to section 488 of the Criminal Procedure Code (Act V of 1898) which in turn was the successor to the 1872 Act. He contends that even in the "Islamic State" of princely Hyderabad wives and children were entitled to maintenance, irrespective of religion and that the

disputed provisions of the present Criminal Procedure Code are aimed only at preventing vagrancy and destitution. He further argues that even before the Shah Bano judgment, the Allahabad High Court had held that the maintenance provision for divorced Muslim women beyond the three month *iddat* period did not conflict with Muslim Personal Law. Besides various submissions made in the Shah Bano case show that translations of the relevant Aiyats of the Quran only uphold the Supreme Court's verdict. He questions the assertion that non-Muslims are not competent to deal with Islamic scripture and law. He exposes the many inconsistencies in the position taken by those who oppose the Supreme Court's verdict and support the Bill. Who is to decide whether or not maintenance for divorced Muslim wives beyond the *iddat* period conflicts with Muslim Law? Maintaining that the Supreme Court alone can take this decision, Justice Reddy claims that the Shariat does not prohibit maintenance beyond the *iddat* period and that the Shah Bano judgment did not, therefore, interfere with Muslim Personal Law. In any case, he concludes that the State has to enact secular laws for the benefit of destitute women regardless of religion.

Dr. Hasan Nishat Ansari of Patna in his letter to the Editor, The Telegraph dated 2 January, 1986 condemned the unpalatable and derogatory remarks of Ansari, Union Minister of State made against Justice Chandrachud, while speaking in the Lok Sabha, providing maintenance to divorced Muslim woman, Shah Bano. Dr. Ansari said: I was surprised that having been a practising lawyer, he did not know that the Muslim personal law, as followed and relied upon by the Courts in India is itself in direct conflict with Koranic injunctions and mandates on vitally important issues like divorce and marriage. In view of the conflict between Al-Koran and the present Muslim legal system what is required is to reject the law which is contrary to Al-Koran. Justice Chandrachud has done a great service to Islam and the Muslims in India by going right into the spirit of Al-Koran which, in fact, for the first time in human history, gave the woman status in society on a par with the man. Unfortunately, however, the Muslim personal law has been compiled on the basis of conventions, practices and mis-interpretations of Al-Koran resulting in the non-implementation of

Koranic concepts and injunctions. Ansari is well advised to be repentant and recant on his ill-advised comments.

Muslims from Bombay in favour of the Supreme Court verdict said: The Supreme Court has done a great service for the Muslims in India. Muslims are totally ignorant of the provisions in the Koran on maintenance because they read the Koran without understanding it. The Supreme Court, in its judgment, had quoted chapter 2, verses 241 and 242, whereby it is obligatory for the man to pay maintenance to the divorced wife. In this context, the recent demonstration by Muslims in Bombay against the verdict was totally uncalled for. What is more shameful is that this agitation was led by smugglers, and the issue has been exploited by Islamic Fundamentalists.

It should be made clear that as the law of the land, as applied by our courts, is above sectarian denominations, people of all faiths have the constitutional right to seek redress under it and cannot be denied justice, when they do so. In a pluralistic society like India, if every religious group insists on its peculiar type of personal law, what would be the *locus standi* of national legislation, which ought to be above sectarian denominations. If a chain of Shariat courts is allowed to decide cases in terms of Shariat laws will it be possible for the Muslim masses ever to join the mainstream?

The former Supreme Court Chief Justice Y.V. Chandrachud, who headed the full bench which had delivered the judgment in the Shah Bano case said that although the Supreme Court has powers to review its own judgment, in this case a review was "particularly inappropriate" as the verdict was a significant landmark in the "march of law towards social reformation." On the question of Muslim personal law, Justice Chandrachud said that when the interest of a community is concerned, it is not a matter of anybody's personal law and unpreparedness for the change and conservatism of Muslim fundamentalists were primarily responsible for the present reaction to the judgment. The decision, he said, "is the common passport to human rights of women also." He hoped that the Muslim community would look at this decision objectively bearing in mind the issues involved.

Similar cases for maintenance were filed by divorced Muslim women against their husbands in different parts of the country.

Court decisions in some of these cases are given below. The first class judicial magistrate of Kakshi, district Dhar, M.P., ordered Taslim Pappu to pay maintenance allowance of Rs. 150 a month to his abandoned wife, Asharbi. Pappu had abandoned his wife without giving her a *talaq* and married a second time. Asharbi had alleged a few months after their marriage four years ago, that her husband harassed and ultimately abandoned her because she objected to his carrying on intimacy with another woman whom he married subsequently.

Justice Kantharia of Bombay High Court had ruled that a wife is entitled to an order of maintenance under section 125 Criminal Procedure Code, even if he has obtained a decree of restitution of conjugal rights. While granting the maintenance application of the petitioner-wife, Amina Mohammedbali Khoja, the judge set aside the order passed by the additional sessions judge, Pune, holding that the woman could not claim alimony in view of the decree obtained by the husband from a civil law court.

In this case, the High Court verdict has been considered very significant in legal circles since it concerns the Ismaili Khoja community, protected by the Muslim personal law and governed by its own "panchayat" councils in such cases. In his order, the judge said that the criminal writ petition filed by the woman under Articles 226/227 of the Constitution for revocation of the sessions court's order which had given rise to an interesting question of law.

The judge said, "The record of the case does not show that the wife had deserted the husband and was unwilling to stay with him without reasonable cause or sufficient reasons. It is also pertinent to note that after obtaining such a decree (for restitution of conjugal rights), the respondent husband had made no genuine, honest and sincere efforts to see that his wife would come back to him. The husband in this case was interested only in a paper decree for restitution of conjugal rights which he got ex-parte. From such an ex-parte decree passed against the wife, it cannot be inferred that she had for no rhyme or reason deserted the company of the husband, the judge observed.

The judge in his judgment restore the order of the Judicial Magistrate, First Class, Pune dated 28 February 1983, directing

the respondent husband to pay monthly maintenance at the rate of Rs. 100 from the date of the application, to his wife, Amina, who had been deserted after 13 years of marriage.

Gallubhai Porbandharwala, Amina's father and editor of a monthly, *Khoja Jagruit*, published from Pune, said the case was the first instance of a Khoja woman going to court to obtain alimony.

In Calicut, the court of first class Judicial Magistrate is littered with maintenance cases and on most days of the week Muslim women, dressed in their distinct rural attire, crowd the corridors of the court room, where their petitions for maintenance are heard. Almost all of them belong to the poorer sections of Muslim community. Many hold wailing babies in arms. In most cases these women had been divorced by their husbands for trival reasons and mainly to live with another wife. In most of the cases the consent of the first, second or third wife is seldom taken. No wonder from the bowels of the city, its slums, scores of Muslim women, some with their children paraded the streets of Calicut in protest against the Shariat. Further up the social scale veiled Muslim women in secure or affluent circumstances marched with placards in Calicut denouncing the marriage and divorce laws that discriminated against women. An enquiry from Muslim dominated areas disclosed that such cases have become regular feature among poorer sections of Muslim community.²⁷

In an application filed in the court of the Chief judicial magistrate, Ghaziabad (U.P.), Rahisa Begum stated that she had been deserted by her husband, Yamin, to whom she had been married 8 years ago under the Muslim rites. Her father had spent more than he could afford in her marriage. She had from Yamin two children, Farmana (girl) and Khalid (son) aged 4 years and 7 months respectively. The son was born in her father's house after she had been driven out by her husband. The magistrate ordered in June, 1984 that Yamin should regularly pay to Rahisa a monthly amount of Rs. 150/- for her and for the maintenance of her children as it was his moral and social obligation to maintain his wife and children.

In the court of first munsif magistrate Kakinada, Shah Jamani Begum filed a case in April 1984 against her husband, M.D. Nurul Amin, a rice merchant, for deserting her along

with her two-year-old son after marrying another woman, and paid no maintenance allowance the court passed orders under section 125 Cr.P.C. directing that Nurul Amin should pay Rs. 500 to his divorced wife and Rs. 300 to his son as maintenance allowance with effect from the date of her filing the petition.

Rajasthan High Court allowed the application of divorcee, Marium of Sawaimadhopur and her son for maintenance allowance under section 125 Cr.P.C. Marium had gone to the High Court against the judgment of the appellate court of Kota which had dismissed her application for maintenance. Reversing the judgment of the additional district and sessions judge of Kota and upholding the judgment of the munsif magistrate of Kota, the High Court observed that the wife was entitled to receive the maintenance allowance from her husband notwithstanding the fact that she had received or would receive dower from her husband after divorce.

The judge also observed that notwithstanding the fact that the wife had left the house of her husband on her own accord without any reason, she would get the maintenance allowance from the date of the order of the High Court. The husband, Mohammad Shakur, argued that as there was no negligence on his part his wife was not entitled to any maintenance since the divorce was forced on him. His other argument was that Muslims were governed only by the Shariat law and section 125 Cr.P.C. was not applicable in this case. The judge rejected both these arguments.

Did we know that in Muslim pockets in Hyderabad, Kerala and Bombay, particularly in poverty stricken families, Muslim women are compelled into marriage at adolescence, discarded soon after or after years of menial domestic subjugation, stranded penniless? Here the Shariat is turned into a legitimate means of female oppression. Often the Shariat is invoked to bolster false motivations, to buttress the greed for quick money. Often the man scamps off with his wife's ornaments after settling up a small business with the dowry money she has paid him. These are men who use the Shariat into an adventure in exploitation, going from one marriage to another without paying any maintenance allowance to the divorced wife. Adolescent girls are also lured with the big Gulf dream.²⁸

In 1982 around 1000 marriages were contracted by the Arab males in the city of Hyderabad alone—which worked out to three a day. In most of these cases the girls belonging to poor Muslim families became second wives of Gulf husbands in the 50 plus age group. On none of these cases there was any possibility of knowing whether Arab males had the prior consent of their first wives living in their country.²⁹

Most of the bridegrooms happened to be petty employees or even scavengers in their countries and pimps of the rich Sheikhs back home. In a few cases, it was found that the rich looking bridegrooms were unemployed and subsisted on begging or charity. These Arabs get generous help from their wealthy employers to visit India for marrying local girls. Quite a few girls, after marriage, are taken to the Gulf for the pleasure of the rich employers.³⁰

There is a big racket in these marriages in which the brokers and qazis play prominent part. The broker negotiates the marriage against payments from both sides. The quicker the divorce the better it is for the broker. He gets the girl again for another transaction. The qazi glosses over the age factor on receipt of money and girls between 11 and 15 years are shown as 20 plus in the nikahnamas to legalise marriages. It does not matter either if a qazi presides over the marriage of the same girl twice within the 40 day *iddat* period (according to the law a woman cannot be married within 40 days of her divorce). There were cases in which a qazi solemnised the marriage of an Arab in the morning and evening. This was not all. The following morning this qazi, who was getting richer after every ceremony, performed the *nikah* of the Arab with another girl. Obviously the Arab marriages are highly lucrative. "In the Barkas locality, even now 25 to 30 girls are being kept at a broker's house" said a small time broker. "He is actually running a brothel in the name of marriage bureau and the police are in league." One Nashima was got married off to Arabs four times by the same broker within a space of two years. He is alleged to have made Rs. 10,000 from the four marriages while her parents got merely Rs. 3,000. The girl is said to be now in the flesh trade.³¹

Married girls are frequently divorced by Arab husbands and left as destitutes leaving no documents behind. Did we know

that in several cases Arab Muslims after three months of their marriage returned to their Arab country and from there through letters divorced their wives? When a Saudi national, 56-year-old Mohammad Saleh Abdullah Al Hameedan of Riyadh was convicted in April 1981 for marrying five girls the authorities were put on their spurs. The number of applications for passports for girls rose from 65 in 1979, to 670 in 1980 and to 700 in 1982. Presently, the Hyderabad regional office gets at least two applications every day from the Indian Muslim wives of Arab husbands.³²

In August 1982, a meeting of Muslim representatives was held at Hyderabad attended by the Regional Passport Officer, Director General of Police, Commissioner of Police, Wakf Board Chairman, Law Secretary and Additional Home Secretary and it was suggested at this meeting for an amendment to the Foreigners Act 1946 to check the rush of marriages. But Muslim religious leaders felt that any restriction would be violative of the Muslim personal law. They view the matter as a Muslim rather than a national view. "The Personal Law Board should take up the cases of girls facing difficulties in obtaining passports."³³

Quite a few Arabs have now extended their activity into the adjoining State of Karnataka. Arabs with fresh looking young Indian brides are now becoming a common sight at hotels in Bangalore. A number of Hyderabad brokers have scurried away to Bombay, where the Arab population is more and the Muslim population has been increasing. Once the Arab leaves the country, the parent and the bride are informed of the divorce. And the brides then get back to the drudgery of earning, somehow, to keep the family from dying of hunger.³⁴

The decision of the Supreme Court ostensibly ushers in a new era for Muslim women's rights and demolishes Muslim's "right" to marry many, and divorce according to whim. Teenaged girls from poor Muslim families and young abandoned wives are particularly vulnerable to predators of the flesh who disguise their intention under the provisions of Muslim Personal Law. Philosophic distinctions cannot quell the fallout of the Muslim system of marriage and divorce. Orphanages and children's homes are crammed with inmates fathered by Muslim men who divorced their wives and whose children are

not welcome in the new homes. And because their own mothers are not able to maintain them, many of the children go vagrant.

Although in regard to criminal matters like theft, murder and adultery the British abolished the Islamic laws and replaced them with their own penal code, the news that the Jamaat Committee of Beemapally mosque in Trivandrum and sentenced a 45-year-old Muslim woman, mother of eight children, Sulekha Bibi, to 101 lashes as also clean shaving of her head for alleged adultery and for consumption of liquor, caused a good deal of stir in the locality.

The implications are ominous. Muslim personal law or Shariat appears to lend itself to arbitrary interpretations in the hands of mullahs who wield powerful influence on local Muslims. Sulekha, secure in her innocence, had not answered the many summons of the Jamaat since April 1985. The consequence was that the Jamaat, with wide local influence instituted social sanctions on her family. They ostracised by the Beemapally Muslim community under strict orders of the Jamaat. Sulekha's husband, M.A. Hamid who worked in the Gulf on return to his village refused to believe the charges against his wife and wanted the Jamaat to withdraw them. It was only when Suleka's husband approached a lawyer, after futile requests for clemency and threatened civil and criminal action against the Jamaat that the latter withdrew the charges. Surprisingly, the Beemapally Jamaat had a history of meeting out punishments to Muslim women in the past; criminal administration working under the Shariat outside the criminal law in the country!³⁵

Liberal Muslims recognise that in a democratic country like India, with multi-religious and multi-racial composition, Islamic laws cannot be enforced and that the privilege Muslims enjoy in the name of Shariat is a limited privilege. There are several inconsistencies in the Muslim postures on personal law. While Muslims have opposed the Adoption Bill of 1972 and the Finance Bill of 1982, they have accepted all along the Special Marriage Act of 1955. And in Kerala, a section of Muslims known as Mopplahs follow the Marumakkathayam or matrimonial system of succession which falls outside the Shariat. Besides, the Kerala Land Reforms Act defines the family in terms of a husband, wife and minor children for

purposes of land ceiling. The Muslims did not seek any exemption from its purview or a redefinition of the "family" to include more than one wife. In fact when the Act was implemented the Muslim League was in power. Elsewhere, many Muslims practice adoption.

The Muslim members of Parliament are opposing a proposed Bill legalising adoption of children on the ground that the Muslim personal law prohibits adoption. The need for a uniform adoption law that would remove the anomaly was first emphasised in 1955. Notwithstanding the fact that the proposed legislation is not statutory, but an enabling law which is at the disposal of those who choose to use it, conservative sections of the Muslim community has been opposing it. By doing so they are preventing the passage of a most humanitarian measure.

The Muslim personal law has encouraged bigamy. Women's organisations, such as Nari Raksha Samities, in different parts of the country have received reports of Hindus, in quest of dowry, have got themselves converted to Islam.

Non-Muslim women have criticised polygamy to a greater degree since the non-Muslim male finds it extremely convenient to convert to Islam overnight, divorce his wife the next morning and get married to his paramour the same afternoon. This criticism is compounded by the not-so-intelligent functioning of the Qazis. Such convenient conversions have been justly and bitterly criticised by non-Muslim women. This is a very commonly used mode by the non-Muslim male to escape the criminal charge of bigamy, as well as enjoy the illegal facility of legally commanding two women to his whims and fancies without going through the due process of divorce and sustaining the expenditure of maintaining the first wife. Section 494 I.P.C. lays down "whoever, having a husband or wife living, marries in any case in which such marriages is void by reason of its taking place during the life time of such husband or wife, shall be punished with imprisonment for 7 years and fine." This section does not apply to a Muslim male though it applies to Hindus, Christians, Parsis and even Muslim women. Thus, roughly speaking, about 90 per cent of India's population is governed by the principle of monogamy. The only exception in favour of the Muslim male goes against the spirit of Article

44 of the Constitution which requires the State to secure for all citizens a uniform civil code applicable throughout India.

The National Committee on the status of women suggested that if a man changes his religion just to be able to take another wife then he should not be entitled to property and other benefits that normally go to him under his first name and religion. A private member introduced a Bill known as : "The Prevention of Bigamous Marriages Bill" on the 19th February, 1982 in the Lok Sabha. It was, however, dropped for want of support from the ruling Congress (I) Party which dared not to incur the displeasure of the Muslim community for fear of losing Muslim "bloc" votes. In this context, it may be mentioned that on the basis of a doctrine of the Hanbali School of Islamic Law, the recent legislation in several countries has decreed to Muslim women the right to stipulate, at the time of marriage, against the second marriage of the husband during the life time of the first wife.

A Muslim, who happens to be a vehement opponent of the taboos of the Muslim personal law, pointed out that if the maulvis and conservative Muslim leaders were making it applicable in the cases of divorced Muslim women they should ask for the full implementation of the law. A Muslim who commits theft should be punished according to the Shariat, by amputation of the hands and an adulterer should be stoned to death, he said. "When something is convenient you accept it and when it is inconvenient you make a hue and cry about it. What rank hypocrisy is this?"

The laws meant for Islamic States cannot be applied in Indian conditions. Shariat embraces both law and religion but separation of law from religion is a unique feature of secular Indian democracy. The ageless concepts of the Shariat laws have come into conflict with modern laws as a result of the rapidly changing society. No wonder, in several Islamic countries the Shariat laws have been undergoing reforms.

If we turn to the Islamic world, whether in the Near, Middle or the Far East, we find that certain common features in the social life of the people are changing and along with them essential principles of Islam are also changing including the Shariat laws. These changes are the result of their desire to improve the socio-economic conditions of the people. The

ageless concepts of the religious law came into conflict with modern civil law, *e.g.*, insurance or the loans with Government raises. Insurance and the giving and taking of interest is forbidden by the Shariat; while it is not only permitted but encouraged. Many Islamic States have already reformed Muslim personal law by imposing strict restrictions on polygamy and introducing family planning programme with a view to curb population growth. For their own benefit, therefore, Indian Muslims must overcome their ignorance and misconceptions which give birth to self-harming prejudices.

In North Africa, French jurisprudence; in Central Asia, the Soviet laws; in India, the English Common law and Indian laws; in Indonesia, the Dutch law and above all, international law, are profoundly influencing the Shariat law particularly the meaning of justice as they affect the Muslims in those countries. Turkey was the first Muslim country to reform the Islamic family law, known as, The Turkish Civil Code of 1926. The areas of reforms, both substantive as well as regulatory, however, differed from country to country. Many of the laws prescribed in the Shariat are no longer valid in India and need necessary reforms in the light of conditions prevailing in India," said M.R.A. Baig.³⁶

Fyzee said that the Mohammadan Law in India is nothing more than some parts of the Islamic sacred law which were applied by the British to Muslims as a matter of policy and which are now continued to be applied under the Constitution of India. Speaking about the status of women in Muslim community, Fyzee observed that in Muslim countries woman is considered the plaything of a man and seldom a life-companion, co-worker, or helpmate. Not only is woman denied her Koranic rights but she is considered inferior to man and not fit for certain political rights. It is not enough to brush this aside by saying that a particular practice is un-Islamic or contrary to the spirit of Islam. It is necessary to face facts to bring about necessary changes in conformity with modern conditions of life, cutting away the dead wood of the past and looking hopefully at the future. It may be possible to construe it as a rule of social conduct which was restricted to conditions existing in Arabia at the time of the Prophet, and as being no longer applicable in modern life.³⁷

Justice M.H. Beg of the Supreme Court had pointed out that no one in any Muslim country questioned the powers of the State to reform Muslim Personal Law through legislation and that in India there was great scope for reform, particularly in law relating to marriage and divorce. He added that Muslim leaders opposed talk of reform because "they think it would deprive them of their importance as protagonists of what they consider to be Muslim culture and religion."³⁸

As Chairman of the Minorities Commission, Justice M.H. Beg supported the Supreme Court judgment. He said : we don't accept that Shariat (Muslim Personal Law) cannot be interpreted. It is a pernicious principle. But if there was a bar on the Supreme Court, the constitutional principle of equality would be a "dead letter". The BJP national executive on January 4, 1986 condemned the "virulent campaign" launched against the Supreme Court by the Muslim League and the Jamaat-e-Islami following the Court's judgment in the Shah Bano case. It said : The verdict of the Court is pre-eminently just and sensible. The "tone and tenor of the speech delivered by the Union Minister, Z.R. Ansari in the Lok Sabha was highly objectionable."

Many contemporary Muslim thinkers have emphasised that the Islamic Shariat evolved over a large period of time, spread over more than a century did assimilate local influences. It is certainly not a closed system of laws. Ashghar Ali Engineer, Director, Institute of Islamic Studies, Bombay speaking on the subject of the Muslim personal law said : It was time to change the Muslim personal law. Of course, in the matter of change, one factor is to be reckoned with and sincere pro-changers do appreciate it. Muslims are in a minority in India and have certain religious susceptibilities. Some persons have done more harm than good by advocating government intervention right away in this matter. Traditional Muslim leadership got an opportunity to arouse the Muslims' sentiment and divert their attention from the real economic problems. What is needed is sincere and devoted work by some educated Muslims who also have a good knowledge of religion to prepare climate for change. This is the only way to knock the feet off the ground of the mullahs who have vested interest in keeping this agitation for "no change" alive.³⁹

Ashghar Ali Engineer said further that "it would be no exaggeration to maintain that the whole agitation the judgment is politically rather than religiously motivated. The granting of maintenance beyond the period of *iddat* may not have been provided in the Shariat, but it is no sin to do so. Like the eating of pork, there is no clear injunction in the Shariat against it."⁴⁰

M.C. Chagla had said : Although the Directive principles of the State enjoins such a code, Government has refused to do anything about it on the plea that the minorities will resent any attempt at imposition. Unless they are agreeable it would not be fair and proper to make the law applicable to them. I wholly and emphatically disagree with this view. The Constitution is binding on everyone, majority and minority; and if the Constitution contains a directive, that directive must be accepted and implemented. Jawaharlal showed great strength and courage in getting the Hindu Reform Bill passed, but he accepted the policy of *laissez-faire* where the Muslims and other minorities were concerned. I am horrified to find that in my country, while monogamy has been made the law for the Hindus, Muslims can still indulge in the luxury of polygamy. It is an insult to womanhood; and Muslim woman, I know, resent this discrimination between Muslim women and Hindu women.⁴¹

Badr-ud-din Tyabji, the distinguished scholar, who analyses trends in Islam in India since Independence, speaking on the "case for a voluntary common civil code" said : In the directive principles of our Constitution stress has rightly been laid on the desirability of framing a common civil code. Even tentative attempts to begin drafting such a code have, however, been thwarted by Muslim opposition to the very idea of such an attempt on the ground that they have their own personal laws, that cannot be even explicated, let alone complemented by civil laws. Indian Muslims have become so different from the Muslims of old who were the torch-bearers of jurisprudence and law reforms that they have not even tried to work out any proposals by which a future common civil code of India might incorporate the features of Muslim personal law that are fundamental to Islam, and thus contribute to the wider dissemination of the benefits of those principles. Instead of that,

the two sides—those who stand for the present form of Muslim personal law and those who advocate a common civil code formed after all points of view and beliefs have been taken into account—continue their verbal and occasional physical assaults on each other. I confess my inability to understand why Muslims should not participate uninhibitedly in a national debate for the framing of a common civil code, while insisting that such a code should conform to the basic principles of Islamic laws.⁴²

Badr-ud-Din Tyabji in his article VOLUNTARY COMMON CIVIL CODE (The way to Integration) published in the Times of India, 28 July 1986 says : “The prospect of the promulgation of a voluntary common civil code for India must gladden the heart of every Indian, who longs for social reform in all communities, classes and sections of our society. Without a sustained, even-handed attempt to advance on this course, as the early forgotten idols of our nascent nationalism—Dadabhai Naoroji, Tellaug, Ranade, Badruddin Tyabji, Ferozeshah Mehta, Gokhale and a host of others—had clearly seen and advocated, there seems little hope of India settling down and functioning fairly as an equitable, peaceful nation State in the foreseeable future”.

Following the communal violence in Northern India in August 1980 the News Magazine, New Delhi, conducted a mini opinion poll among Muslim MPs civil servants and other Muslim elites to assess their feelings about the state of the Muslim community in India today. In regard to the question : “Should Muslim Personal Law be changed? Eighty per cent said, “yes”. Begum Hamida Habibullah, M.P. said, “I firmly believe in a uniform civil code for all citizens in a secular democracy.”⁴³

Speaking at an eve-of-session meeting with the Opposition leaders in Parliament on the evening of July 16, 1986 the Prime Minister is reported to have said that the Government was ready with a Bill for a voluntary uniform civil code. He did not spell out when the Bill would be introduced in Parliament.

The cry for a common civil code has a bizarre history. The Constituent Assembly rocked by the impact of post-partition problems stalled it. It left it over for resolution at a more propitious juncture. Its leaders thought that a time would

come when the wounds inflicted by partition and its aftermath would have healed. Unfortunately, however, relations between Hindus and Muslims soured and Orthodox Muslim leaders and Mullahs opposed, from time to time the promulgation of a common civil code. Their opposition was based on imaginary suspicion and fear that it would mean imposition of the Hindu Code and interference with the Shariat.

Supporting the case for a uniform civil code, Baharul Islam, former Supreme Court judge and now a member of the Rajya Sabha points out in his two articles : RELIGION AND STATE, I and II, published in the Statesman (August 18 and 19, 1986) how a uniform civil code can be introduced to achieve progress and reduce communal tension. He suggested that a committee of suitable eminent jurists be constituted to identify the true and correct Shariat law, thereafter, a commission of eminent jurists, journalists and other intellectuals can codify it and draft a uniform civil code. The committee and the commission will have time-bound programmes. This would be followed by a national debate on the draft code for a fixed period of time, whereafter the final code can be adopted by Parliament. He dismissed any suspicion or fear of the Muslims that a uniform civil code would obliterate the religious and cultural identity of Muslim community. He emphasised that constant review and revision is inherent in Islam, and that traditional interpretations of the Shariat deserve to be brought up to date and improved.

Minoo Masani, former member of the Constituent Assembly and former chairman of the United Nations Sub-Commission on discrimination, and chairman of the Indian Minorities Commission, said that he does not agree to any religious group, whether in a majority or a minority, has a right to exclusion from the civil and criminal law of a country. Reproducing the following questions by Madhu Mehta of the Hindustani Andolan, put to Muslim fundamentalists Masani said that one still awaits an answer to these questions from those concerned.⁴⁴

- a) Are they prepared to demand that Criminal Procedure Code should be so amended that every Muslim can be awarded the punishment for any crime committed by

him or her as laid down by Shariat? For example, any one of them found stealing should be prepared to let his hands be cut off and anyone who commits adultery should be prepared to be stoned to death, etc.

- b) Are these leaders prepared to tell their fellow Muslims that they should stop selling, smuggling, distributing and consuming liquor and drugs as it is against Shariat and all those who flout this edict should be prepared to be flogged publicly?
- c) Are they prepared to tell their fellow Muslims not to deposit their money in any bank as bank charges interest from borrowers which is against Shariat?

A common law for all citizens and equality before law is the rule in all civilised countries. In the USA there is no separate law for American Jews or American protestants or the American Catholics. In the United Kingdom, the USSR, Philippines and China where substantial percentage of Muslims live, but they are in minority, the latter have to follow the common law of the land. In Islamic States, the minorities are required to follow the law of the land.

Article 44 of the Indian Constitution specifically directs the State to have a common civil code for the whole country. But this constitutional directive has been flouted for all these years to pamper the Muslim community which has been opposing any change in the Muslim personal law. The aim is purely political to safeguard the right to polygamy and easy divorce for Muslim males much against the wishes of Muslim women. But, however, much the obscurantist ulema may bar the emancipation of Muslim women, a large section of Muslim women and their organisations are calling on their sisters to rise against the tyrannical and unilateral provisions of the Muslim personal law.

Sooner or later Indian Muslims have to accept a common civil code and accept family planning programme in their own interests. "If they refuse to move and signs of movement are difficult to discern" said M.R.A. Baig "then Parliament which is of all Indians, by all Indians, and for all Indians, irrespective of caste, creed or community must move for them. Democracy has a duty to perform to social progress and must never tolerate

social stagnation. It is, therefore, necessary to remind Mrs. Gandhi that she is also the Prime Minister of 60,000,000 Muslims and their communal laws are by any standards and in her own words, also static and stagnant. Though, since they give religious sanction to male supremacy, Muslim men may resist changes in their laws, it is the tragedy of millions of silenced woman and unborn children that the government's "Muslim Policy" is motivated by ideology no higher than political expedience. "Democracy", Mrs. Gandhi has also said, "does not mean the *status quo*." But in the much vaunted democracy in Islam it seems to mean just that.⁴⁵

When steps were taken to reform Hindu Law it was argued that the laws of Manu, Vashistha and Apastambha could not be altered as they are divinely obtained. The reforms were, however, carried through in the teeth of the opposition of obscurantists, who too were insisting that personal law and religion were inseparable, that the law like the religion was divinely ordained and could not, therefore, be altered by human hand, that amending one would endanger the other, etc. All these specious assertions were set aside. The law was updated and reformed. Hinduism did not collapse.

The Government should undertake serious exercise to reform the Muslim personal law by first preparing a comprehensive bill in this regard with the help of eminent Muslim jurists, intellectuals, Ulama and social workers based on similar changes wrought in other Islamic and non-Islamic countries. The bill should be a comprehensive proposal for reformed legislation without violating Koranic values, and thrown open for public debate.

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CHAPTER 4

DYNAMICS OF MUSLIM POPULATION GROWTH

Before the partition of India, most Muslims were concentrated in two areas : the north-western part of India which had been the major path of Muslim conquest in earlier centuries, and the north-eastern region of the country, where large scale conversion of Hindus to Islam occurred due to rigid caste system. The extent of this concentration can be illustrated by figures from the 1941 Census of India, which established the national population at 388, 997, 955 with 270, 187, 283 Hindus (69.5% of the total) and 94,446,544 Muslims (24.3%). The six areas of Muslim concentrations are given in Table 1.

Thus, nearly two-thirds of Indian Muslims lived in the six areas listed in Table 1, with the result that Muslims represented only 11.8% of the resident population throughout the remainder of India. This concentration at the two ends of the Ganges River Plain not only facilitated the British tendency to view Muslims as a separate community; it also allowed communalists like Jinnah to envision an Islamic State since the two communities were already largely divided. Kingsley Davis had observed that had the Muslims been distributed evenly throughout India, the idea of Pakistan might have never occurred.

In 1951, the Muslim population in India was about 30 million. In 1961 it jumped to 42 million and in 1971 to 57 million. Now Muslim politicians and Muslim communal organisations have started a systematic campaign to give bloated figures about Muslim population in India. The figures they give range from 14 crores to 20 crores. Some of them go so far as to suggest that Muslims are one-third of the total population

Table 1 : State-wise Population of India with Percentage Increase

State/U.T.	Total Population		Percentage increase	
	1961	1971	1961-71	1971-81
<i>India</i>	43,92,34,771	54,81,59,652	24.80	21.37
Andhra Pradesh	3,59,83,447	4,35,02,708	20.90	23.1
Assam	1,08,37,329	1,46,25,152	34.95	—
Bihar	4,64,55,610	5,63,53,369	21.31	24.06
Gujarat	2,06,33,350	2,66,97,475	29.39	27.67
Haryana	75,90,543	1,00,36,808	32.23	28.75
Himachal Pradesh	28,12,463	34,60,434	23.04	23.70
Jammu & Kashmir	35,60,976	46,16,632	29.65	29.69
Kerala	1,69,03,715	2,13,47,375	26.29	19.23
Madhya Pradesh	3,23,72,408	4,16,54,119	28.67	25.26
Maharashtra	3,95,53,718	5,04,12,235	27.45	24.54
Manipur	7,80,037	10,72,753	37.53	32.46
Meghalaya	7,69,380	10,11,699	31.50	32.04
Karnataka	2,35,86,772	2,92,99,014	24.22	26.75
Nagaland	3,69,200	5,16,449	39.88	50.05
Orissa	1,75,48,846	2,19,44,615	25.05	20.17
Punjab	1,11,35,069	1,35,51,060	21.70	23.89

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Rajasthan	2,01,55,602	2,57,65,806	3,42,61,862	27.83	32.97
Sikkim	1,62,189	2,09,843	3,16,385	29.38	50.77
Tamil Nadu	3,36,86,953	4,11,99,168	4,84,08,077	22.30	17.49
Tripura	11,42,005	15,56,342	20,53,058	36.28	31.91
Uttar Pradesh	7,37,46,401	8,83,41,144	11,08,62,013	19.79	25.49
West Bengal	3,49,26,279	4,43,12,011	5,45,80,647	26.87	23.17
A.N. Island	63,548	1,15,133	1,88,741	81.17	63.93
Arunachal Pradesh	3,36,558	4,67,511	6,31,839	38.91	35.15
Chandigarh	1,19,881	2,57,251	4,51,610	114.59	75.55
D & N Haveli	57,963	74,170	1,03,676	27.96	39.78
Delhi	26,58,612	40,65,698	62,20,406	52.93	52.99
Goa, Daman & Diu	6,26,667	8,57,771	10,86,730	36.88	26.69
L.M. & A. Island	24,108	31,810	40,249	91.95	26.33
Mizoram	2,66,063	3,32,390	4,93,757	24.93	48.55
Pondichery	3,69,079	4,71,707	6,04,471	27.81	28.14

Sources : Census papers of India 1961, 1971 and 1981.

in the country. There is no doubt that the Muslim population in India has been increasing rapidly over the years. This is mainly because of the following factors, namely polygamy, planned opposition to family planning programme, conversion of weaker sections of the Hindu society in some parts of the country with the help of petrodollars, illegal immigration and infiltration of Muslims from Pakistan and Bangladesh. These factors account for the rapid growth rate of Muslim population in India. State-wise population of India with religion-wise decadal percentage variations are shown in Tables 2, 3, 4 and 5.

India's religious composition as a share of the total population based on the 1981 Census (excluding Assam) is cited here, the figures, in brackets being the percentages for 1971. Thus Hindus accounted for 82.64% (83); Muslims 11.85% (10.35); Christians 2.43% (2.59); Sikhs 1.96% (1.94); Buddhists 0.71% (0.72); Jains 0.48% (0.49); other religions 0.42% (0.41); and religion not stated 0.01% (0.01). It may be mentioned in passing that according to the 1971 Census, the proportion of Hindus (including Assam) was 82.72% while that of Muslims 11.20%. In Assam, the Hindus were 72.51% and Muslims 24.56%. It can be estimated that the proportion of Muslims in India (including Assam) in 1981 would be roughly 11.71% (with an absolute population of a little over 80 million) compared to 11.20% in 1971. Likewise, the estimate proportion of Hindus in 1981 (including Assam) would be 82.01% (with an absolute population of 563 million).¹

The census paper gives the differential growth rates of population by religion. The percentage figures for 1971-81 are Hindus 24.2%; Muslims 30.6%; Christians 16.8%; Sikhs 26.2%; Buddhist 22.5%; Jains 23.7%; other religions 26.6%; and for all-India (excluding Assam) 24.7%. There could be three explanations, says Ashish Bose, Professor of population Studies at Delhi's Institute of Population Growth and President of the Indian Association for the study of population, for the higher growth rate of Muslims compared to non-Muslims. First, a higher rate of natural increase in population, i.e. the balance between births and deaths; secondly, net immigration of Muslims from outside India,

Table 2 : State-wise Hindu and Muslim Population of India with Percentage Increase

State/U.T.	Hindus		Percentage increase			Muslims		Percentage increase		
	1961	1971	1981	1961-71	1971-81	1961	1971	1981	1961-71	1971-81
1	2	3	4	5	6	7	8	9	10	11
India	36,65,01,267	45,34,36,630	54,97,79,481	23.69	24.15	4,69,39,791	6,14,18,269	7,55,12,439	30.84	30.59
Andhra Pradesh	3,18,13,944	3,81,19,279	4,75,25,681	19.82	24.67	27,15,021	35,20,166	45,33,700	29.66	28.79
Assam	77,30,698	1,06,04,618	No census	37.15	—	27,42,287	35,92,124	No census	30.99	—
Bihar	3,93,45,517	4,70,31,801	5,80,11,070	19.54	23.34	57,85,631	75,94,173	98,74,993	31.26	30.03
Gujarat	1,83,56,065	2,38,35,471	3,05,18,500	29.85	28.04	17,45,103	22,49,055	29,07,744	28.88	29.28
Haryana	67,48,826	89,56,310	1,15,47,676	32.71	28.93	2,90,438	4,05,723	5,23,536	39.69	29.03
Himachal Pradesh	26,98,378	33,24,627	40,99,706	23.21	23.30	37,980	50,327	69,613	32.51	38.32
Jammu & Kashmir	10,13,193	14,04,292	19,30,448	38.60	37.50	24,32,067	30,40,129	38,43,451	25.06	26.42
Kerala	1,02,82,568	1,26,83,277	1,48,01,347	23.35	16.70	30,27,639	41,62,718	54,09,687	37.49	29.95
Madhya Pradesh	3,04,25,798	3,90,24,162	4,85,04,575	28.26	24.29	13,17,617	18,15,685	25,01,919	37.80	37.79

(Contd.)

(Contd.)

Table 2 (Contd.)

1	2	3	4	5	6	7	8	9	10	11
Maharashtra	3,25,30,901	4,13,07,287	5,11,09,457	26.98	23.72	30,34,332	42,33,023	58,05,785	39.50	37.15
Manipur	4,81,112	6,32,597	8,53,180	31.49	34.86	48,588	70,969	99,327	46.06	39.95
Meghalaya	1,40,445	1,87,140	2,40,831	33.25	28.69	23,019	26,347	41,434	14.46	57.26
Karnataka	2,05,82,853	2,53,32,388	3,19,06,793	23.08	25.95	23,28,376	31,13,298	41,04,616	33.71	31.84
Nagaland	34,677	59,031	1,11,266	70.23	88.48	891	2,966	11,806	232.88	298.04
Orissa	1,71,23,194	2,11,21,056	2,51,61,725	23.35	19.13	2,15,315	3,26,507	4,22,266	51.64	29.33
Punjab	47,04,743	50,87,235	62,00,195	8.13	21.90	89,048	1,14,447	1,68,094	28.52	46.90
Rajasthan	1,81,32,690	2,30,93,895	3,06,03,970	27.36	32.51	13,14,618	17,78,275	24,92,145	35.27	40.10
Sikkim	1,08,165	1,44,544	2,12,780	33.63	47.21	1,207	335	3,241 (-)	72.25	867.46
Tamil Nadu	3,02,97,115	3,66,74,150	4,30,16,546	21.05	17.29	15,60,414	21,08,899	25,19,947	35.15	19.49
Tripura	8,67,998	13,93,689	18,34,218	60.56	31.61	2,30,002	1,03,562	1,38,529 (-)	54.97	33.76
Uttar Pradesh	6,24,37,316	7,59,97,597	9,23,65,968	21.72	21.54	1,07,88,089	1,36,76,533	1,76,57,735	26.77	29.11
West Bengal	2,75,23,358	3,46,11,864	4,20,07,159	25.75	21.40	69,85,287	90,84,338	1,17,43,259	30.05	29.27
A & N. Island	32,781	70,134	1,21,793	113.95	73.66	7,398	11,655	16,188	57.54	38.89
Arunachal Pradesh	N.A.	1,02,832	1,84,732	—	79.64	N.A.	842	5,073	—	502.49

Chandigarh	88,117	—, 84,395	3,39,920	109.26	84.34	1,467	3,720	9,115	153.58	145.03
D. & N. Haveli	56,576	71,075	99,072	25.63	39.39	443	740	1,932	65.18	161.10
Delhi	22,34,597	34,07,835	52,00,432	52.50	52.60	1,55,458	2,63,019	4,81,802	69.20	83.20
Goa, Daman & Diu	3,84,378	5,50,482	7,16,169	43.21	30.10	14,600	32,250	48,461	120.89	50.26
L.M. & A. Island	263	1,545	1,799	487.45	16.44	23,780	30,019	38,173	26.23	27.16
Mizoram	13,778	21,229	35,245	54.08	66.02	208	1,882	2,205	804.80	17.16
Pondichery	3,11,223	4,00,793	5,17,288	28.78	29.06	23,470	29,148	36,663	24.19	25.78

Sources : Census papers of India 1961, 1971 and 1981.

Table 3 : Decennial Growth of Hindu Population in Districts of West Bengal Since 1951

State/Districts	Hindus				Growth Rate			
	1951	1961	1971	1981	1951-61	1961-71	1971-81	
<i>West Bengal</i>	2,07,51,412	2,75,23,358	3,46,11,864	4,20,07,159	32.63	25.75		21.4
Darjeeling	3,63,836	5,01,382	6,36,741	8,13,625	37.80	27.00		27.78
Jalpaiguri	7,69,878	11,60,945	15,19,201	19,38,062	50.80	30.86		27.57
Cooch Behar	4,75,824	7,75,514	11,11,017	13,99,844	62.98	43.26		26.00
<i>West Bengal</i>	—	9,72,534	11,72,930	15,21,416	—	20.61		29.71
Dinajpur	5,89,896	6,55,415	9,13,283	11,07,192	11.11	39.34		21.23
Maldah	7,65,218	10,09,470	12,77,873	15,21,448	31.92	26.59		19.06
Murshidabad	8,81,955	12,84,173	16,93,006	22,29,177	45.61	31.84		31.67
Nadia	34,06,298	47,70,427	63,96,256	81,08,070	40.05	34.08		26.76
24 Parganas	13,44,616	16,98,306	19,77,551	23,58,785	26.30	16.44		19.28
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Calcutta	21,25,907	24,57,144	26,17,589	27,06,511	15.58	6.53	3.40
Hooghly	13,44,765	19,43,698	24,95,447	30,56,143	44.54	28.39	22.47
Burdwan	18,35,106	25,98,875	32,19,642	39,38,376	41.62	23.89	22.32
Birbhum	7,74,527	10,43,661	12,53,117	14,37,945	34.75	20.07	14.75
Bankura	12,02,653	15,59,399	18,45,268	21,34,153	29.66	18.33	15.66
Midnapur	30,82,900	40,05,869	49,94,092	60,37,882	29.94	24.67	20.90
Purulia	—	12,66,537	14,88,851	16,98,530	—	17.55	14.08

Table 4 : Decennial Growth of Muslim Population in Districts of West Bengal Since 1951

State/Districts	Muslims				Growth Rate		
	1951	1961	1971	1981	1951-61	1961-71	1971-81
<i>West Bengal</i>							
	51,18,269	69,85,287	90,64,338	1,17,43,259	36.48	29.76	29.27
Darjeeling	62,150(B)	82,046(B)	91,358(B)	37,299	32.01(B)	11.35(B)	—
Jalpaiguri	89,099	1,29,771	1,56,992	1,93,658	45.65	20.98	23.36
Cooch Behar	1,94,220	2,42,371	3,00,496	3,68,176	24.79	23.98	22.52
<i>West Dinajpur</i>							
	—	5,21,758	6,67,547	8,60,797	—	27.94	28.90
Maldah	3,46,649	5,64,331	9,95,504	9,19,918	62.80	23.24	32.30
Murshidabad	9,47,815	12,79,256	16,56,406	21,69,121	34.97	29.48	30.95
Nadia	2,56,017	4,17,706	5,20,571	7,13,776	63.16	24.63	37.10
24-Parganas	11,68,629	14,69,135	20,00,844	25,63,751	25.71	36.19	28.10
Howrah	2,61,414	3,33,481	4,35,199	5,98,448	27.57	30.50	37.51

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Calcutta	3,05,932	3,74,126	4,46,932	5,06,942	22.29	19.46	13.43
Hooghly	2,06,230	2,82,413	3,70,354	4,89,494	36.94	31.14	32.17
Burdwan	3,41,878	4,67,669	6,72,227	8,50,951	36.79	43.74	26.59
Birbhum	2,86,518	3,99,513	5,18,381	6,49,212	39.44	29.75	25.24
Bankura	58,103	73,007	98,489	1,34,085	25.65	34.90	36.14
Midnapur	2,40,860	3,30,015	4,26,463	5,86,587	37.02	29.23	37.55
Purulia	—	81,521	74,410	1,01,044	—	(-)-8.72	35.79

Note : (B) denotes number of Buddhists.

Higher growth rate of followers of Islam :

It will be seen that during 1951-61 the Muslims registered a big increase of 36.48 per cent as against 32.63 per cent recorded by the Hindus in the State. In the districts of Malda and Nadia the rate of their growth had reached the staggering figures of 62.80 and 63.16. They have again increased in numbers particularly fast in the districts of Burdwan, 24-Parganas and Bankura during 1961-71. The growth in Burdwan is as high as 43.74 per cent. The districts of 24-Parganas and Bankura do not lag far behind with big increase of 36.19 per cent and 34.90 per cent respectively. Purulia is the only district which has recorded a fall in the number of Muslims. In 1971, the followers of Islam in the district totalled 74,410 against 81,521 in 1961. Out-migration to the neighbouring industrial belt of Bihar is explained for the fall in their numbers.

Table 5 : Decennial Growth of Hindu Population in Districts of Bihar Since 1951

State/Districts	Hindus				Growth Rate		
	1951	1961	1971	1981	1951-61	1961-71	1971-81
Bihar	3,43,16,316	3,93,45,517	4,70,31,801	5,80,11,070	14.66	19.54	23.34
Patna	22,79,282	27,27,211	32,84,444	27,79,436	19.65	20.43	(-)15.38
Gaya	27,60,424	33,00,804	40,04,706	28,02,206	19.58	21.33	(-)30.03
Shahabad	25,08,166	29,91,208	36,38,887	—	19.26	21.65	—
Saran	27,73,529	31,56,698	37,12,051	18,82,360	13.82	17.59	(-)49.29
Champaran	21,16,840	25,03,503	28,92,956	—	18.27	15.56	—
Muzaffarpur	31,12,435	35,90,315	41,73,254	20,17,969	15.35	16.24	(-)51.65
Darbhanga	32,69,716	38,06,301	44,60,957	15,74,222	16.41	17.20	(-)64.71
Monghyr	26,10,087	30,82,165	35,28,854	30,24,530	18.09	14.49	(-)14.29
Bhagalpur	12,63,728	14,96,395	18,06,671	22,50,895	18.41	20.73	24.59
Saharsa	12,24,616	15,33,663	20,61,243	25,78,468	25.24	34.40	25.09
Purnea	17,07,624	19,19,184	23,62,017	20,90,292	12.31	23.07	(-)11.50
Santal Parganas	20,98,492	21,77,200	25,88,127	29,23,412	3.75	18.87	12.95
Hazaribagh	17,07,558	20,96,962	25,90,670	19,01,959	22.80	23.54	(-)26.58
Ranchi	10,16,080	13,62,995	16,87,866	19,76,998	34.14	23.84	17.13
Dhanbad	6,26,814	10,22,731	12,78,150	18,29,948	56.82	24.97	43.17
Purulia	14,43,805	—	—	—	—	—	—
Palamau	8,71,261	10,51,823	13,16,897	16,65,531	20.72	25.20	26.47

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Singhbhum	9,26,959	15,26,359	16,44,051	19,23,826	64.66	7.71	17.02
Nalanda	—	—	—	15,03,339	—	—	—
Nawada	—	—	—	9,73,868	—	—	—
Aurangabad	—	—	—	11,17,550	—	—	—
Rohitas	—	—	—	21,45,766	—	—	—
Bhojpur	—	—	—	22,47,991	—	—	—
Siwan	—	—	—	14,83,664	—	—	—
Gopalganj	—	—	—	11,54,359	—	—	—
Pashchim Champaran	—	—	—	15,80,257	—	—	—
Purba Champaran	—	—	—	19,97,230	—	—	—
Sitamarhi	—	—	—	15,74,613	—	—	—
Vaishali	—	—	—	15,10,662	—	—	—
Begusarai	—	—	—	12,79,189	—	—	—
Samastipur	—	—	—	19,09,932	—	—	—
Madhubani	—	—	—	19,57,629	—	—	—
Katihar	—	—	—	8,96,976	—	—	—
Giridih	—	—	—	14,55,993	—	—	—

and, thirdly, conversion of non-Muslims to Islam. The third factor is likely to be negligible. In the absence of detailed statistics one can not quantify the relative roles of the first two factors. One can, however, draw some inferences from the census paper about the higher fertility of Muslims and the immigration from Pakistan and later Bangladesh.²

A good example of differential fertility by religion is provided by Kerala. During 1971-81, the growth rate of Hindus in Kerala was 16.7% as compared to 30% for Muslims. According to a detailed field investigation by K.C. Zachariah, the fertility level of Muslims there was the highest while that of the Nairs was the lowest. The practice of family planning was the lowest among Muslims and the highest among Christians.³

Striking examples of Hindu-Muslim differential in growth rates and the implied migration from outside (Pakistan and Bangladesh) into India are provided by the figures for the border State of India. The percentage growth rate by religion during 1971-81 was Bihar 23.3% (Hindus) and 30.0% (Muslims); West Bengal 21.4% (Hindus) and 29.6% (Muslims), Rajasthan 32.5% (Hindus) and 40.1% (Muslims); Punjab 21.5% (Hindus) and 46.9% (Muslims); Himachal Pradesh 23.3% (Hindus) and 38.3% Muslims and Delhi Union Territory 52.6% (Hindus) and 83.2% (Muslims).⁴

The abnormally high rate of growth of the Muslim population in Punjab and Rajasthan calls for investigation. Internal migration alone cannot explain this phenomenon. There is unmistakable evidence from the census data that there must have been considerable illegal migration from Pakistan in these border States and also in big cities like Bombay, Calcutta and Delhi. Interestingly enough, in Haryana, the Hindu population increased by 28.9% while the Muslim population increased by very much the same rate (29.0%) unlike Punjab. The growth rates of Muslims in Bihar and West Bengal are very high and causing anxiety to these governments. Illegal migration from East Bengal and Bangladesh is a demographic reality. A Commission has been proposed to examine the nationality of the inhabitants of the border districts of Bihar and West Bengal. According to the Director General, Border Security Force, about 32,500

foreign nationals were detained in 1984 in different border areas bordering Bangladesh. Lt. General Ershad has gone on record as having asked what was there in India to attract the Bangladeshis. The military rule of Bangladesh would be better to direct this question to his own people. Curiously enough in Jammu and Kashmir the Hindu population increased by 37.5% while the Muslim population increased by 26.4% during 1971-81 (the State's overall growth rate was 29.7%). This needs investigation.

Even without the data for Assam which is perhaps the State most affected by migration, the 1981 census offers enough evidence of illegal migration from Bangladesh. For decades Muslims from East Bengal have been migrating to Assam in search of land and job. In 1971, they contributed to 34.5 per cent of the State's population and in southern Assam they are the majority. The figure has gone up during the last seven years as the following census figures would indicate:

Muslim Population in Assam

1911	9.4 per cent
1921	9.4 per cent
1931	20.0 per cent
1941	25.0 per cent
1951	19.0 per cent
1961	34.4 per cent
1971	34.5 per cent

Assam had been a Hindu majority state, but from 1921 to 1947 a large number of Muslims from East Bengal were encouraged to migrate to Assam. Viceroy Lord Wavell in his diary had noted in 1946 that Sir Sadullah's "grow more food" campaign with its open invitation to Muslim peasants from East Bengal was turned into "grow more Muslim" campaign. After the partition, the Muslim population, increased further and the aftermath of the Bangladesh liberation war of 1971 opened floodgates of Muslim infiltration, and the process continues even today thanks to the support from Muslim politicians in Assam.

Between October 15, 1952 and December 31, 1957, the total number of Pakistani nationals detected, inside Assam, without

any special machinery being set up for the purpose, stood at 13,632. The infiltration continued and it assumed serious proportions following the liberation of Bangladesh when some 12 lakh people crossed over to Assam for shelter. It might be recalled that geographically, Jinnah laid down on November 8, 1945 to an Associated Press of America staff correspondent that Pakistan would embrace all the N.W. Frontier, Baluchistan, Sindh and the Punjab provinces in north-western India; on the eastern side of India would be the other portion of Pakistan comprised of Bengal (including the rich industrial and port city of Calcutta) and Assam provinces.

M.V. Kamath wrote in 1980 that the Assamese frustration is further fuelled by the fear that in the not too distant future they may be swamped by "foreign nationals", mostly Muslims from Bangladesh. Infiltrators from East Bengal settled largely in Nowgong, Darrang, North Lakhimpur and Sylhet. Sylhet district with a majority of Muslim population, opted by plebiscite, to go out of Assam and formed a part of East Pakistan.

The percentage growth rates by religion during 1971-81 in Bihar and West Bengal were 23.3 per cent Hindus and 30.0 per cent Muslims; 21.4 per cent Hindus and 29.6 per cent Muslims respectively. There has been continued infiltration of Muslim from Bangladesh into border districts of Maldah, Nadia, Murshidabad, West Dinajpur, Purulia, 24-Parganas and Calcutta in West Bengal. The percentage growth rates of these districts by religion during 1971-81 were: Murshidabad 19.0% (Hindus) and 30.95% (Muslims); Nadia 31.7% (Hindus) and 37.1% (Muslims); Maldah 21.2% (Hindus) and 32.3% (Muslims); Purulia 14.1% (Hindus) and 35.8% (Muslims); West Dinajpur 29.7% (Hindus) and 28.9% (Muslims); 24 Parganas 26.8% (Hindus) and 28.1% (Muslims) and Calcutta 106.2% (Hindus) and 126.7% (Muslims). See Tables 3 and 4.

Infiltration and illegal immigration from neighbouring Pakistan and Bangladesh and allied problems have assumed monstrous proportions in our bordering States. Foreign nationals from Bangladesh enter into through the border check-posts in West Bengal. Many of them come armed with valid documents, but when they are asked to name places of India where they intended to stay during their temporary visit many

of them give false addresses with names of non-existent persons and villages. A check-back, therefore, yields no result. Liberal grant of passports by the Bangladesh government has helped large scale infiltration of these persons who do not return to Bangladesh even after the expiry of their period of stay. In fact, Bangladesh government has been encouraging Bihari Muslims to infiltrate into Indian territory. Lakhs of Pakistani Bihari Muslims had been waiting for about a decade in camps in Bangladesh to go to Pakistan. Having failed to carry out threat to undertake a long march to Pakistan through India, and finding that Pakistan was reluctant to accept them, they changed their strategy. They systematically infiltrated into Indian territory in small groups through West Bengal checkpoints ever since 1971. They also entered the Indian territory crossing rivers by boats.⁵

Many of them migrated into India illegally with the help of Indian Muslim organisations and powerful Muslim political leaders, who are interested in increasing Muslim population and Hindu political leaders interested in collecting bloc Muslim votes rather than safeguarding the national interest. This apart, the blessings of the ruling party helped such migration. There is a pattern in these migration and resettlement business. Once they are able to get inside the Indian territory they find no difficulty to mingle with fraternal community and are protected by them. They first congregate at Metiabruz, a Muslim pocket in Calcutta city, considered safe as a fortress for them. The Bihari Muslims avoid to settle in West Bengal villages because their language, mostly a sort of mixed Hindi-Urdu, would betray them. Many of them conceal themselves in industrial areas of Titagarh and Kakinara with the help of touts till they go away to Bihar.⁶

Some of them go to their ancestral homes in Bihar and resettled there with the help of their friends, relations and local Muslim organisations. Those who stay in Metiabruz fan out to different parts of the city particularly in Garden Reach, Ekbalpur, Colotola, parts of Watgunge, Park Circus, Rajabazar—all strongholds of Muslims; and then to different States.⁷

As soon as a migrant arrives, the local Muslim organisations try to secure a ration card for him which is often regarded as a document to prove that he is a citizen of India. Even

powerful Muslim political leaders of the locality recommended numerous applications for new ration cards. In this way, thousands of ration cards have been issued from the Rationing Offices in the Kidderpore area alone during last few years. It was reported that some inspectors who went to these areas to inquire about new applicants for ration cards were beaten up. The police had to face resistance at Koila Sarak bustee in Kidderpore where they had gone to inquire about some foreign nationals living there.⁸

Many of them find shelter in mosques and then they spread out to slum areas. They are employed at the Calcutta docks with the help of a labour union. They also find employment in leather tanneries run by Muslim businessmen. Many tailoring shops, restaurants and eating houses, butchers' shops, barbers' shops have mushroomed in the areas where they are settled. There has been large scale influx of hawkers, shoe-shine boys, rickshaw pullers from the Muslim Community in recent years.⁹

In a large number of cases in Calcutta applications for Indian passports had been recommended to non-Indians by a Muslim MLA during the last two to three years. It is also alleged that some of the richer sections among them have been able to buy land in the Bongaon, Basirhat and Barasat areas with the help of lawyers and touts operating there without even making their physical appearance at the registration office.¹⁰

Infiltration of foreign nationals from Bangladesh has assumed alarming proportions. Many of them are settled in Maldah, Nadia, Murshidabad, Purulia, West Dinajpur and 24 Parganas districts of West Bengal and Calcutta city. The districts of Purnea and Katihar in Bihar have also been seriously affected by infiltration of Muslims from Bangladesh.¹¹

In 1971, sixty-seven santhal families of Jashinagar village were allotted 187 acres of fallow land which they made cultivable. But their dream of prospering in life was short-lived. In 1980, with the help of local administrators, hordes of infiltrators invaded the area, causing lot of friction. Tension mounted as more such incidents occurred. Finally, all hell broke loose and a major clash between santhals and the infiltrators occurred on

July 29, 1983 in Lakshimpur village, in Purnea district in which 5 santhals were killed.¹²

The scourge of infiltration began even before Bangladesh was born. But, now it has become exceedingly acute. Though Kishanganj in Purnea district is only 20 km away from the Bangladesh border, the infiltrators trudge into Bihar from the Maldah and Dinajpur districts of West Bengal main route. On December 13, 1983 Bihar Chief Minister, in a statement in the Assembly, admitted the presence of infiltrators. A study of the population increase in the affected areas will shed more light on the problem.¹³

In 1941-51, the increase in Purnea district (which also included Katihar) was much lower than in any other district in Bihar. It was just 6.13% as against 17.89 and 21.71% in Patna and Dhanbad. The tempo of increase in population in these areas, however, shot up in 1951-61. It rose to 39.66% and 31.09% respectively in Purnea and Katihar as against 16.31% and 27.91% in Patna and Dhanbad. It was 28.78% and 24.80% respectively in 1961-71 and 28.09% and 25.52% in 1971-81. Decennial growth of Hindu and Muslim population in the districts of Bihar since 1951 is shown in Tables 5 and 6. A mere vivid example can be found in Alipur village of Katihar district. Years ago, there was only one Muslim family. But now there are more than 2,500 families. Though most of them do not speak about Bangladesh as their homeland, their way of life, culture and customs stand out.¹⁴

What is noteworthy is the fact that most of the infiltrators, who entered penniless, have become wealthy. Some attribute their wealth to smuggling. The most worrying aspect of the affair is the fact that no firm action has been taken to stop infiltration and all political parties encourage infiltration to preserve their vote bank. Important Muslim leaders are aiding and abetting infiltration. As the agitation against the infiltrators gained momentum in Purnea and Katihar district the infiltrators moved to other areas of Bihar. Hundreds of Muslim infiltrators have settled in Baro-Bazar about two km from Barauni junction. It was alleged that there were around 3 to 4 lakhs infiltrators settled in Purnea and Katihar districts. Only after agitation notices had been served on 18,000 people from Purnea asking them to prove their identity.¹⁵

Table 6 : Decennial Growth of Muslim Population in Districts of Bihar Since 1951

State/Districts	Muslims				Growth Rate		
	1951	1961	1971	1981	1951-61	1961-71	1971-81
<i>Bihar</i>	45,64,466	57,85,631	75,94,173	98,74,993	26.75	31.26	30.03
Patna	2,39,873	2,13,031	2,59,951	2,25,014	(-)11.19	22.02	(-)15.19
Gaya	3,03,512	3,43,421	4,48,997	3,28,015	13.15	30.74	(-)26.94
Shahabad	1,77,542	2,21,479	2,93,755	—	24.75	32.63	—
Saran	3,81,153	4,27,371	5,64,018	2,01,224	12.13	31.97	(-)64.32
Champanan	3,97,689	4,98,629	6,44,047	—	25.38	29.16	—
Muzaffarpur	4,07,585	5,25,727	6,61,754	3,36,331	28.99	25.87	(-)49.18
Darbhanga	4,99,350	6,05,352	7,69,437	4,32,751	21.23	27.11	(-)43.76
Monghyr	2,36,393	2,98,423	3,54,286	2,82,724	26.24	18.72	(-)20.20
Bhagalpur	1,63,483	2,12,188	2,78,049	2,65,313	29.79	31.04	31.38
Saharsa	83,235	1,87,402	2,86,001	3,70,757	125.15	52.61	29.63
Purnea	8,17,148	11,63,934	15,61,797	14,95,557	42.44	34.18	(-) 4.24
Santal Parganas	2,19,240	3,68,331	4,66,034	6,11,367	68.00	26.53	31.19
Hazaribagh	2,14,961	2,82,915	3,96,028	2,69,658	31.61	39.98	(-)31.91
Ranchi	98,204	1,22,808	1,89,941	2,38,879	24.31	54.67	25.76

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Dhanbad	87,782	1,22,635	1,66,008	2,57,411	39.70	35.37	55.06
Purulia	84,225	—	—	—	—	—	—
Palamau	97,403	1,15,078	1,57,698	2,13,421	18.15	37.04	35.34
Singhbhum	55,688	76,907	96,372	1,30,510	38.10	25.31	35.42
Nalanda	—	—	—	1,36,808	—	—	—
Nawada	—	—	—	1,24,906	—	—	—
Aurangabad	—	—	—	1,18,988	—	—	—
Rohitas	—	—	—	2,17,741	—	—	—
Bhojpur	—	—	—	1,55,598	—	—	—
Siwan	—	—	—	2,94,796	—	—	—
Gopalganj	—	—	—	2,07,368	—	—	—
Pashchim Champran	—	—	—	3,87,243	—	—	—
Purba Champaran	—	—	—	4,27,081	—	—	—
Sitamarhi	—	—	—	3,56,479	—	—	—
Vaishali	—	—	—	1,50,855	—	—	—
Begusarai	—	—	—	1,75,713	—	—	—
Samastipur	—	—	—	2,06,035	—	—	—
Madhubani	—	—	—	3,67,771	—	—	—
Katihar	—	—	—	5,27,379	—	—	—
Giridih	—	—	—	2,61,300	—	—	—

Widespread corruption among Panchayat members and local police has helped these infiltrators to settle down in villages with the support of the Muslim leaders and organisations and politicians in power. These infiltrators earn their livelihood by smuggling ; even a large number of inhabitants of the border villages are directly or indirectly involved in smuggling across the border.

During the past two years, thousands of Muslims living near the border in the districts of Ganganagar, Bikaner and Jaisalmer in Rajasthan had fled to Pakistan. According to official records, almost 20,000 people crossed over to the enemy side from Rajasthan, the largest number—over 7,000 being from Jaisalmer district. These people after settling down there, became regular residents of Pakistan and also obtained Pak citizenship. The Indian Government subsequently confiscated their property. Thousands of cases of sedition were registered against the deserters and court proceedings launched. The Rajasthan government had moved the Central government to forfeit their citizenship, but New Delhi did little. With elections following both the wars, unscrupulous Indian politicians, manipulated the electoral rolls to ensure that the names of deserters were not deleted. These votes were polled through large-scale impersonation. With the situation becoming normal the deserters started returning discreetly.¹⁶

Halim Misri had left his home in Barmer village in Rajasthan 14 years ago and crossed the border to settle down in Thakarpur district of Pakistan. He recently returned to his village, only to be arrested by the police as he happened to be a Pakistani national. But inquiry revealed that he had remained an Indian citizen also. His name was still on the voters' list and the records showed that he had even cast his vote in the 1980 Lok Sabha elections. The court released him but the police maintained that he had not been in India and someone else had voted for him.¹⁷

Sajjan Khan had migrated to Pakistan in 1965 from Longewala in Jaisalmer. He was caught in Indian territory in November 1982 without any passport or travel documents. After his arrest, he managed somehow to have his name entered in the electoral rolls of the Shiv constituency of Barmer. He also got the sarpanch of a Rajasthan village to testify in court

that he happened to be a resident of that village. The court released him.¹⁸

Halim Misri and Sajjan Khan are just two of the 242 Pakistani infiltrators arrested in Rajasthan over the last three years. Police officials say that even this figure is a mere fraction of the actual number and point to the rise in population figures—the population country-wide registered an average increase of only twenty per cent between 1971-81 Census, the growth rate for Barmer alone was 36.3 per cent ; Jaisalmer 38.5 per cent ; Bikaner 40.7 per cent ; and Ganganagar 47 per cent. People of border village are alarmed at the unexplained increase in population in the relatively short span of 1971 to 1981 (see Table 7). The population in Rajasthan's Bandha Village has gone up from 172 to 5,888 ; in Muhar village from 9 to 247 ; in Kuldar from 32 to 240 ; in Modana from 422 to 1,198 ; in Mota Kilon-ki-dhani from 48 to 540 and in Mandasar from 446 to 1,171. That this is largely due to infiltration is borne out by the sudden rise in the number of Muslim-dominated villages along the border. Bureaucrats and police officials do not rule out the possibility of Pakistani nationals having come over and used names of migrated Indian Muslims to gain legitimacy. A senior police official said that it was extremely difficult to spot out Pakistanis settled here as border villages are remotely situated. As many as 352 Pakistani nationals who came to Rajasthan on valid passports in the last three years have not gone back. The police have not been able to trace even one of them.¹⁹

It is reported that after the 1965 war with Pakistan, as many as 17,598 Indian Muslims migrated to Pakistan including at least 6,000 cases in Jaisalmer alone. On these, 930 chose to return later while the others opted for Pakistani citizenship. All this while their names had remained on the voters' lists and votes continued to be cast in their names. So those who returned had no problem in slipping back quietly into the Indian territory. While the police insisted that they were now Pakistani nationals and had illegally entered India, the electoral rolls eventually proved to be evidence to the contrary.²⁰

Though the Rajasthan government does not admit large scale infiltrations into the State but the fact that thousands

**Table 7 : Decennial Growth of Muslim Population in Punjab and Rajasthan Districts
Bordering Pakistan**

State	District	Muslims			Percentage Increase	
		1961	1971	1981	1961-71	1971-81
<i>Rajasthan</i>						
	Barmer	91,850	92,491	1,26,070	0.7	36.3
	Bikaner	50,264	60,815	85,583	21.1	40.7
	Ganganagar	34,891	48,762	71,672	39.7	47.0
	Jaisalmer	37,049	40,711	56,378	9.9	38.5
<i>Punjab</i>						
	Patiala	11,714	13,644	22,174	16.5	62.5
	Sangrur	55,738	64,448	89,443	15.6	38.8

Table 8 : Population by Major Religious Communities in India (Million)

Religions	1961	% to total population	1971	% to total population	1971**	% to total population	1981*	% to total population
Hindus	366.4	83.4	453.4	82.7	442.8	83.0	550.0	82.6
Muslims	46.9	10.7	61.4	11.2	57.8	10.8	75.5	11.4
Christians	10.7	2.4	14.2	2.6	13.8	2.6	16.2	2.4
Sikhs	7.8	1.8	10.4	1.9	10.3	1.9	13.1	2.0
Buddhists	3.2	0.7	3.9	0.7	3.8	0.7	4.7	0.7
Jains	2.0	0.5	2.6	0.5	2.6	0.5	3.2	0.5
Others	1.6	0.4	2.2	0.4	2.2	0.4	2.8	0.4
Religion not stated	.6				.2			
Total	439.2	100.0	548.1	100.0	533.5	100.0	665.5	100.0

*Excludes Assam where no Census was held due to disturbed condition.

**1971 relates to the population excluding Assam for comparison purposes.

Sources : Census papers of India 1961, 1971 and 1981.

have slowly and steadily crept into India with the help of corrupt panchayat officials, politicians and local Muslim organisations who help to legalise the infiltrators by procuring documents to prove their presence in the areas for the past many years. There is no way to prevent them, or others impersonating them, from coming back unless their Indian citizenship is cancelled. Removal of these migrated Indians from the electoral rolls may change the ruling party's political fortunes and so no firm action is taken to stop infiltration. Only recently two well-known Congress (I) Muslim leaders of Jaisalmer were arrested for anti-national activities and another Congress (I) Muslim leader, vice-president, Lakhpat taluka unit of Kutch in Gujarat was also arrested on similar charges.²²

One Umar Dangra, a Pakistani, sneaked into India through Kutch and stayed with Juma Mohammad, a known smuggler. He reportedly drafted Madhu Maheshwari, a deck-hand on the Indian Navy training ship INS Valsura, to pass secret information for a monthly payment of Rs. 2,500. Maheshwari was taken to Pakistan on camel back across the Kutch desert and shown detailed close-ups of various parts of INS Valsura. He was also told to shelter Pakistani spies and if needed, smuggle them abroad the ship. The details came to light after Maheshwari was arrested for spying.²²

The easiest means of livelihood in the backward border areas is smuggling, which is carried on in a large-scale. Many of the Indian villages are closer to Pakistan and consequently the villagers are not dependent on India as everything they need come from Pakistan. No wonder they identify themselves more with Pakistan. Not only Muslim villagers but Rajputs too living on the Pakistan border are equally involved in smuggling and harbouring Muslim infiltrators.²³

A very serious trend noticeable in Punjab after the recent widespread communal violence in the Krishan Nagar area of Amritsar, and reported in the Statesman's editorial dated May 25, 1986, has been a calculated move by the terrorists, in connivance with Pakistan, to force the Hindus to migrate from certain villages along the borders with Pakistan; their proximity to the country which is widely believed to be providing sanctuary and training to Sikh secessionists undoubtedly enables

the terrorists to operate in them with greater freedom than in the rest of Punjab. The State border with Pakistan is over 400 KM long and the terrorists will have achieved much of their objective if they can instil fear among the Hindus all over this sector. The situation in towns like Gurdaspur and Batala is not very reassuring either, for posters have recently appeared there asking the Hindus to leave. The terrorists are not only threatening the minorities but also those Sikhs who try to protect their Hindu neighbours. The migration, however limited, is a pointer to the seriousness of the situation in Punjab especially in its border districts, where some people are said to be negotiating the sale of their property in preparation for leaving the State.

During the past few years the border area had served as a heaven for terrorists, who after obtaining training and arms in Pakistan, crossed over into India and fanned out all over the country. There has been a steady one-way traffic of illegal immigrants from Pakistan to the border areas because of the Rajasthan canal, renamed the Indira Gandhi Nahar, which converted the barren and sparsely populated areas into fertile and prosperous areas. The importance of the Rajasthan Canal also lies in the fact that it travels for over 450 KM along the border. The areas to be served in Jaisalmer and Barmer districts include areas adjoining Longewala and Gadra Road which were the main targets of Pakistan during 1965 and 1971 Indo-Pakistan wars, and fiercest battles were fought in the Jaisalmer and Barmer sectors in which the Pakistan Army lost to the Indian Army.²⁴

There can be no dispute about the fact that a very large number of Pakistani nationals have infiltrated into border villages in the Jaisalmer, Bikaner and Ganganagar districts and settled in the garb of Indian nationals. Many of them are enjoying citizenship in both the countries. Many of the infiltrators are said to be trained *mujahideen* (rebels and religious fighters) employed for espionage work. A multi-pronged approach is necessary to effectively tackle the problem.²⁵

The two districts affected by infiltration of Pakistani nationals in Punjab are Patiala and Sangrur. The growth rate for Patiala was 62.5 per cent and for Sangrur was 38.8 per

cent between 1971-81 compared to 16.5 and 15.6 per cent respectively between 1961-71 (See Table 7).

Did we know that thousands of Pakistani nationals are scattered across Kerala ? The areas of concentration are Malappuram, Cannanore and Calicut, which form the region traditionally known as Malabar. Malappuram, the largest pocket, is a predominantly Muslim area with hundreds of Pakistani nationals hold up in obscure nooks of the district. This presents a problem for the police in keeping track of fresh arrivals from Pakistan and those who stay beyond three months stipulated in their residential permits. Pakistani nationals without valid travel documents enter the country through the wheat fields of Punjab, according to some Pakistani passport holders in Kerala. They point to stringent and time-consuming visa procedures imposed by the Indian government as possibly contributing to the illegal border crossing. Some wealthy Pakistani nationals from Chokli, near Tellichery, in north Kerala, have managed to become Indian nationals. Pakistani nationals in Kerala with the active support of local populace have overstayed and carry on with their existence, undiscovered. They are considered to be security risk, and Malappuram district as a security-sensitive area.

Manning every inch of the border is well nigh impossible for any agency, whether it be our police, or the BSF, or the army. But there are other ways also to do the job fruitfully. The following suggestions can be considered :

- a) All the foreign nationals must be identified and deported.
- b) Under rule 8 of the Indian Citizenship Rules, 1956 collectors and district magistrates are authorised to register a person as a citizen of India under Section 5 (i) (a) or section 5 (i) (d) of the Citizenship Act, 1955. The authority given to the collectors and district magistrates be withdrawn and brought under the purview of the Ministry of Home Affairs, Government of India.
- c) Properties acquired illegally in violation of section 31 of the Foreign Exchange Regulation Act should be

confiscated and suitable reward be announced for identification of infiltrators.

- d) Those Pakistani and Bangladesh nationals visiting India every year on valid visa, but overstaying in India after the expiry of their visa should also be considered as infiltrators and appropriate action, including their deportation be taken.
- e) To have proper identification of infiltrators it would be useful to have one or more commission for the border State of Bihar, West Bengal, Rajasthan, Gujarat, Punjab, Jammu & Kashmir and Tripura.
- f) A highly efficient intelligence machinery capable enough to identify the illegal immigrants and stop the trans-border commerce in humans, firearms and drugs.
- g) The routes favoured by illegal immigrants to be identified and the number of observation posts increased. If, even this does not stop the movement spotter planes could be used to survey those stretches where movement is expected.
- h) Civil police posts parallel to the border can be set up with jeeps for patrolling in parallel lines.
- i) Village responsibility has to be legalised.
- j) Land in the Indira Gandhi Nahar command area near the border should be reserved for settlement only of exservicemen. This will create a strong second line of defence and reduce the possibility of infiltration.
- k) A specific area along the border should be earmarked as no-man's-land. B.N. Mullick, the Director of Intelligence Bureau, in his time, had thought of a two-mile no-man's zone along the border, on the Indian side. At present the farmers on both sides of the border are tilling the land upto the farthest point on the border. This makes effective control difficult and anti-national elements in the garb of farmers cross over from one side of the border to the other without any apprehension of being rounded up.
- l) Infiltrators, smugglers, spies, etc., should not be given any protection and dealt with a firm hand.

The National Convention on infiltration was held in Calcutta on February 12, 1984. As many as 118 delegates from 11 States participated in the Convention which was inaugurated by Justice H.R. Khanna, former judge Supreme Court, Lt. General Jagjit Singh Aurora (Retd.) presided over the inaugural session. The delegates included political and student leaders, lawyers, social workers and journalists. The convention was organised by the Purvanchal Anti-Infiltration Committee but it included delegates from Bihar, West Bengal, Tripura, Gujarat, Rajasthan, Uttar Pradesh and Jammu and Kashmir also. The convention's opinion was that all the foreign nationals numbering about one crore, must ultimately be deported and the Indian border with neighbouring countries must be fully protected to check infiltration. The question of thousands of Pakistani and Bangladeshi nationals visiting the country every year on valid visa staying here even after the expiry of their visa was also discussed by the delegates. The consensus in the convention was that such aliens overstaying in the country should also be considered as infiltrators and appropriate action, including deportation, should be taken against them.²⁶

The convention also demanded that the names of infiltrators must be removed from the electoral rolls before holding any election. Another decision of the convention was contained in the unanimous demand for statutory provisions for making and maintenance of National Register of Indian Citizens including their birth and death record. The electoral rolls should be based also on such National Register of citizens.²⁷

"Barbed wire fencing across 2000 KM-long Bangladesh border cannot be effective nor economical to solve the problem. Moreover waterways would still be available for illegal movement in certain border areas," said K.F. Rustamji, former Director General, BSF. Certain routes are favoured by illegal migrants. These routes should be identified and the number of observation posts across them increased. If even this does not stop the movement, dogpatrols, could be used and spotter planes could survey those stretches where movement is expected. But any attempt to strengthen the arrangements on the border can never be a sure preventive, unless civil police posts parallel to the border can be set up with jeeps to enable them

to move in parallel lines. Village responsibility also would have to be legalised, the forging of papers stopped and a constant vigil maintained for corruption.²⁸

More and more Pakistani Muslims have been noticed staying in communal riot-prone areas even several months after the expiry of their visas, and this strengthened the doubt of involvement of foreign elements in communal riots. It was alleged that when the communal riots broke out in Bhiwani—Bombay in 1984 more than 100,000 Pakistani Muslims had been overstaying in Bombay alone—much beyond the expiry dates mentioned in their passports.²⁹

Minister of State for Internal Security stated in the Rajya Sabha on 5 December 1985, in reply to Jaswant Singh (BJP) during the question hour that of the 5,513 untraced Pakistani nationals, 3,273 were in Maharashtra alone and the State Government had been asked to identify them with a view to their deportation. He clarified that the figures of untraceable Pakistanis related to the past 33 years. He further stated that 98,908 Pakistani nationals visited India by the last month. Of them, 44,401 visited the country in the past three months.³⁰

The importance of the problem lies in the fact that not only human traffic but arms and narcotics find easy access into India. Reports from the Punjab, Rajasthan and Jammu and Kashmir indicate setting up of camps inside Pakistan for training of Khalistani terrorists and illegal migration into India. They smuggle arms and narcotics in large quantities. There are many godfathers, agents, touts, etc. on the Indian side who not only provide shelter and food to the illegal migrants but all help needed to remain unnoticed. The BSF with the help of the local police must break up these gangs, round up the agents and touts and send the godfathers to prison. What is needed is not a fence along the border but a highly efficient intelligence machinery capable enough to identify the illegal migrants and stop the trans-border commerce in humans, drugs and arms.

In August 1986 Parliament adopted a resolution in pursuance of Article 249 of the Constitution whereby the Centre assumed special powers to create a security belt to deal directly and swiftly against large scale infiltration, illegal traffic in arms, drugs and secessionist and terrorist activities on

international borders. Not only the entire Pakistan borders from Kashmir to Kutch but our borders with Bangladesh and China also need to be protected.

Unfortunately, the Central Government is dithering over the framing of law under Article 249 of the Constitution. Apart from the terrorist menace, the problem of illegal infiltration into almost all border States, namely Punjab, Gujarat, Bihar, Rajasthan, Jammu and Kashmir, West Bengal, and the north-eastern States has assumed grave dimensions.

It is high time the Central Government introduces a scheme, without delay, whereby :

- (a) Photo-affixed identity cards were required to be carried by all Indian citizens living within five km of the international border and gradually extended to the entire country;
- (b) Each family of Indian citizens living within five km of the international border to be supplied with "Family Card" containing the photograph of the head of the family and names and full particulars of the dependent members of the family. This will prevent harbouring of foreign nationals by Indian citizens.

It may be mentioned that the Constitution of India required that after every Census there should be a fresh delimitation of constituencies, but this requirement has not been met after the 1981 Census. A Bill introduced in Parliament in this regard in 1983 was withdrawn. This Bill should be reintroduced and the work of delimitation completed well in time for the 1989-90 Lok Sabha and Assembly elections.

In India, fundamentalist Muslim leaders are strongly opposed to the abolition of polygamy and the implementation of family planning programmes. The most obvious reason, of course, is for augmenting Muslim population. Due to socio-economic factors all nations, around the world, including orthodox Muslim countries have reformed Muslim personal law and adopted family planning measures to check population growth. A community-wise sample survey from West

Bengal is given in the following Table to indicate the position of family planning.

**Demographic Particulars of Family Welfare
Acceptors for the Year 1983-84**

West Bengal (By Community)

Sl. No.	Religion	Vasectomy	Tubectomy	Total	IUD*
1.	Hindus	61,476	2,40,820	3,02,296	36,794
2.	Muslims	17,927	43,996	61,923	7,629
3.	Christian	815	1,275	2,090	222
4.	Sikhs	15	41	56	19
5.	Others	2,054	2,591	4,645	309
6.	Not stated	—	—	—	—
7.	Not available	—	—	—	—
Total		82,287	2,88,723	3,71,010	44,973

*Intra Uterine Contraceptive Device.

The Muslims argue that polygamy and family planning concern only the Muslims and does not affect non-Muslims. Surely, it is not the responsibility of the State to keep on feeding and giving shelter to a community, among Indian citizens, who insist to have more than one wife, and have unlimited number of children and do not abide by the family laws applicable to other communities to check population growth. In mosques, they are told that birth control interferes with God's decree and at weddings a *hadith* is usually repeated according to which Prophet Muhammad had said that on the Day of Judgment, he would be proud of Muslims with many children. Islam prohibits many things such as family planning and birth control,

intercourse during *Ramzan*, *Moharrum*, and on other occasions; lending money and acceptance of interest; Muslims are forbidden to fight and kill other Muslims. Iraq-Iran war has been going on for years notwithstanding the Koranic law prohibiting killing of Muslims by Muslims. "The idea of implementing the Koranic instructions in the modern State is simply an absurdity" says Mahbubul Hok in *Quest*, September-October, 1971. Islam, in its orthodox interpretation, has lost the resilience needed for adoption to modern life. In the light of the conditions prevailing in India and in their own interests Indian Muslims have to accept family planning programme. In fact, report from Maharashtra indicates that Muslims in urban areas have shown interest in family planning programme, but in other States Islamic thought still remains elitist and is unaffected by poverty and economic backwardness.

In regard to conversion, "Islam reaches the height of intolerance" said M.R.A. Baig. In spite of the Koran saying at one place: "To you be your way, and to me, mine," Muslims are enjoined to convert non-Muslims, and death is prescribed for Muslims when the opposite takes place.³¹ Ever since the Muslims first appeared on the soil of India, "religion" and "conversion" with their political philosophy and proselytizing zeal, adopted various converting methods, to which history is a witness. But whatever its prevalence and whatever its form, through proselytization Islam and orthodox Hinduism came to a clash. Whereas it was inherent in Islam to proselytize, the exact opposite was inherent in Hinduism. During the whole of what is historically termed as the "Muslim period" the State took interest in the conversion of Hindus into Islam. Proselytization is an absolute essential for a church to function. Muslim rulers encouraged by various means, the conversion of Hindus to Islam. "May His Tribe increase" is the maxim guiding it. To convert and infidel to the fold of the faithfuls is the greatest service one can render unto Church and God. Conversion from Hinduism to Islam is well known. After all, from where so many Indian Muslims come? The very survival of Hindus is threatened in their own homeland. Since it is easy to be wise after the event, it was, therefore, inevitable that the forces of eroded Hinduism should launch a counter-attack, and it came

in the form of Arya Samaj with its programme of reconversion.

After the partition of the country, the position of India's Muslims depended primarily on the goodwill of the majority community and this was inhibited by various factors, among which their communalist activities converting Hindus to Islam continued to be prominent. The Hindu community is perplexed and bewildered when it takes stock of the situation. Neither Hindu-Muslim unity nor the process of national integration take place in an atmosphere of distrust and suspicion where Muslim communal organisations and Muslim leaders are indulging in Harijan-baiting by promoting, on grounds of religion caste, etc. disharmony and feelings of enmity, hatred and ill-will between different religions and caste groups. How harmful such activities are to the Muslims themselves needs no emphasis. The Muslims cannot, therefore, object to Arya Samaj reconverting the converts.

Is it right and fair that one should try to undermine a neighbour's faith? "Hindu society being a stratified system of social groups sanctified by the doctrine of *Karma*, proselytization struck at the very core of Hindu doctrine and presented the greatest threat to Hinduism" said M.R.A. Baig.³²

In this connection attention may be drawn to the publication in the *Economist*, London, dated August 8, 1981 about a plan launched by the London-based Islamic Cultural Centre to convert 80 million of India's 120 million Harijan-Hindus with the help of Gulf money. Hard on the heels of this publication and the activities of the Jamaat mass Conversions of Harijans to Islam took place in several villages of Tamil Nadu and also from several other places including Hyderabad.

The Sixth All-India Conference of the Jamaat-e-Islami Hind was held in Hyderabad early in 1981. At this Conference, it was alleged that the Jamaat appealed to Muslim countries for financial assistance and opening of Islamic banks in India. The tone of the Jamaat Conference was set by Maulana Muhammad Yusuf, Ameer-e-Jamaat-e-Islami Hind, when he outlined the duties and responsibilities of Indian Muslims in the context of Pan-Islamism. The Maulani harped on their

separate identity. It was also reported that a decision was taken at this Conference, which was attended by delegates from Arab countries, to raise India's Muslim population by conversion of Harijan Hindus. Soon after the conference, wall posters appeared in the twin cities demanding a separate homeland for the Muslims living in India. Issued in the name of Khizri Shah Hashmi who styled himself "Khalif of Indian Muslims" the Urdu posters pleaded for a State its size being proportionate to population. Conversions from free choice and conviction is very different from organised missionary effort as a religious duty.

Any collective Muslim activity, however, innocent is immediately regarded as something sinister, and even as a stepping-stone to another Pakistan. The cry against the enactment of a legislation to curb unlawful conversions by the Muslim M.Ps. will only substantiate our views that all conversions to Islam in recent years are the outcome of Harijan-baiting, with funds from within this country as well as funds from Gulf countries. Since the problem of unlawful conversion involves law and order question the government will be fully justified to enact a legislation to curb it.

Did we know that Maulana Atta Ullah Suhrawardy, a senior leader of National Conference led by Dr. Farooq Abdullah and a former deputy chairman of the Jammu and Kashmir, Legislative Council, participating in the debate on the motion of thanks for Governor's address had spoken about "Islamisation of India"? He said that "every Muslim was under religious obligation to convert people of other faiths to Islam."

As one caste a glance at the Muslim world one is bewildered by the variety of epithets to the fundamentalistic movement for Islamic resurgence. It should be kept in mind that Cyprus with half a million population is situated on the Mediterranean. Its people are of Greek origin and speak a dialect of Greek language. Like Greece it too was a part of Eastern Roman Empire till fifteenth century when it too came under Turkish Islamic rule after the Turks captured Constantinople and brought a major part of Eastern Roman Empire under their control. St. Sophia is the presiding saint of Cyprus also. Church of St. Sophia in Nicosia, like the church of St. Sophia

in Constantinople, was converted into a mosque during the Turkish rule. Some Cypriots were converted to Islam during the Turkish rule in the same way as Hindus were converted to Islam in India. Some Turks were also settled there. It came under the British rule by the middle of nineteenth century after a military defeat of Turkey. It regained its freedom from British rule about two decades back.

Muslims, both of Greek and Turkish origin constituted about 18 per cent of the population of Cyprus. The rest were Christians and favoured political union of their island with Greece. The Muslims in Cyprus, however, refused to co-exist in peace on equal terms with Christians. They wanted partition of Cyprus so that the Northern areas of Cyprus could be made into a separate Islamic State. Since the leadership of Cyprus refused to submit to the demand of the Muslims for a separate State, they sought military help from Islamic Turkey to achieve their end. The invading Turkish army occupied about 35 per cent territory of Cyprus through force which became a *de-facto* Muslim State within Cyprus. The Turkish invasion and forced partition of Cyprus was condemned at all world forums.

The conference of Foreign Ministers of Islamic countries held in Dakha in the first week of December, 1983 recognised the new State and asked all Islamic countries to do the same. As a result the *de-facto* partition of Cyprus on the basis of religion, brought about by military intervention of Turkey, has been given a *de-jure* recognition by the Islamic countries in spite of the opposition of U.N. and N.A.M., including India. Did we know that eleven Muslim leaders in Yugoslavia had been charged with conspiring to establish Muslim rule in Bosnia Herzegovena—one of the country's six republics? The developments in Cyprus and Yugoslavia have a lesson for India in view of the planned measures taken by the Indian Muslims to increase their population.

Today, their main attack is against secularism, which they contend is the worst enemy of Islam. They argue that there can be no separation between religion and politics in Islam and Muslims cannot accept a secular State. Modern secularism implies different social groups living together side-by-side within Indian society.

Did we know that the assimilation of Muslims with Hindus failed in Pakistan as it has in India, or, for that matter, everywhere else in the world where there are unassimilable Hindus and Muslim; Hindus such as in Burma, Ceylon and East Africa, and Muslims such as in southern Philippines where the Filipino Muslims are waging a communal civil war?³³

M.R.A. Baig, puts the following question to which the future clearly demands an answer : Muslim Indians have to decide whether they will continue to live as hypocrites causing permanent tension and periodic riots or whether they would reconcile the anachrinism and anomalies of Islam with the India of today, legitimise the inevitable changes and live in India with a free conscience and as good citizens?³⁴

The following Tables are provided in this chapter for ready reference :—

Table 1 : State-wise population of India with precentage increase.

Table 2 : State-wise Hindu and Muslim population of India with percentage increase.

Table 3 : Decennial growth of Hindu population in districts of West Bengal since 1951.

Table 4 : Decennial growth of Muslim population in districts of West Bengal since 1951.

Table 5 : Decennial growth of Hindu population in districts of Bihar since 1951.

Table 6 : Decennial growth of Muslim population in districts of Bihar since 1951.

Table 7 : Decennial growth of Muslim population in Punjab and Rajasthan districts bordering Pakistan.

Table 8 : Population by major religious communities in India (Million)

Higher Growth Rate of Followers of Islam

It will be seen that during 1951-61 the Muslims registered a big increase of 36.48 per cent as against 32.63 per cent recorded by the Hindus in the State. In the districts of Malda and Nadia the rate of their growth had reached the staggering

figures of 62.80 and 63.16. They have again increased in numbers particularly fast in the districts of Burdwan, 24-Parganas and Bankura during 1961-71. The growth in Burdwan is as high as 43.74 per cent. The districts of 24-Parganas and Bankura do not lag far behind with big increase of 36.19 per cent and 34.90 per cent respectively. Purulia is the only district which has recorded a fall in the number of Muslims. In 1971, the followers of Islam in the district totalled 74,410 against 81,521 in 1961. Out-migration to the neighbouring industrial belt of Bihar is explained for the fall in their numbers.

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CHAPTER 5

IMPACT OF PAKISTAN POLITICS ON INDIAN SOCIETY

The Indian Muslims had brought Pakistan into being on the ground that Muslims represented a nation totally distinct from Hindus and were, therefore, entitled to a sovereign homeland. Religious emotion formed the foundation for the Pakistan demand and working through the Muslim League, Jinnah engineered rallies, processions, morchas and public demonstrations aimed at solidifying Islamic sentiment. The League waged an extensive propaganda campaign on behalf of Pakistan, and manoeuvred large scale communal riots throughout the country to achieve Pakistan. The adoption of Direct Action Day in 1946 was perhaps the most dramatic League effort to involve the Muslim masses in political action. Sizeable League victories in the 1945-46 elections had firmly established Jinnah's political prominence, providing the base of power he needed to achieve Pakistan.

In 1947 the riots and massacres of Partition ushered into existence the new States of India and Pakistan. Partition, after all, did not solve the communal problem; it simply internationalised it. The gross weakness of Jinnah's logic was underscored by Wilfred Smith, who wrote in 1946: "If Muslims in the present India, constituting a minority of 23.5 per cent, deserve the right to secede, how can one visualise a Pakistan with non-Muslim minorities of 40 per cent and more. If Hindus and Muslims could not live together in India because they were totally antagonistic cultures, as Jinnah argued, how could they then live together in Pakistan, as he said they would?" And if difference in culture formed a basis for nationhood, as he maintained, then East and West Pakistan should not logically have been united in one country. Indeed,

the emergence of Bangladesh in 1971 confirmed the absurdity of the creation of a bisected Pakistan."

The Muslims of what used to be India are today three-nations: Indian Muslims, Muslims in Pakistan and Muslims in Bangladesh. All of them, who happened to be Hindu converts, have the same tradition behind them and culturally, each is full heir to the same heritage that was Indian Islam. At one point of time in the sub-continent's history, there was no Hindu-Muslim rioting and the Muslim League spoke initially the same language as the Congress. The communal electorate introduced in 1919 divided the two communities. The communal politics of the Muslim League (1906) contributed to communal riots, and in order to counter-balance it, the Hindu Mahasabha and the RSS were founded (1925). Admittedly, we have not been able to eliminate communal rioting and the belief that a religious community can consider itself a separate nation is still with a lot of us.

Ours is not a perfect society but we are trying to establish a secular State does not get mixed up in religion as it is in Pakistan. The Muslims of India number about 80 million, which is more than Pakistan's population, and they enjoy equal status with all other citizens under the Indian Constitution. Hindu-Muslim antagonism has been inhibited by various factors, among which, Pakistan behaviour continued to be prominent. The Muslims of Pakistan have strikingly contributed to damage relations between Hindus and Muslims in India by persistently operating on a communalist interpretation both of Muslims' interests and of Indian nationalism. Formally, its official policy was forced by realities fairly quickly to recognise that Pakistan has no extra-territorial claim on the Muslims in India. Emotionally, however, and unofficially, the claim persisted.

An agreement between India and Pakistan, known as the Liyaqat-Nehru Pact, signed by the two Prime Ministers on April 8, 1950, on the treatment of minorities emphasised that the allegiance and loyalty of the minorities should be to the State of which they are citizens, and it is to the Government of their own State to which they should look for the redress of their grievances. Pakistan has been expressing "concern" over the "plight" of Indian Muslims every

now and then, by trying to pose as their champions. "Pakistani attitudes to India still expressed a basic antagonism, and a refusal to admit the latter's non-communal character. Its people remained still incapable of recognizing let alone of applauding and encouraging the secularism of the new State. Rather than coming firmly to terms with the realization that the position of Indian Muslims depends primarily on two things, their aspiration towards Indianness and India's aspiration towards secularism, Pakistan has tended to deride the secularism and to presume and encourage a disloyalty of Indian Muslims to their State," says Wilfred Cantwell Smith.²

The attitude of the Indian Muslims is determined not only by their own behaviour with their fellow citizens but also by that of their fellow Muslims of a different nation. Although President Zia-ul-Haq has denied, time and again, the involvement of Pakistan in communal riots in India it had been openly alleged that Pakistan has played no mean part in the bloody communal riots which had taken a heavy toll of human life and property.

The love-hate relationship of Pakistan with India dates back from its failure to annex the portion of Kashmir now in India. The Pakistani leaders kept "hate India" tirade alive, inciting the Muslims in India against the Hindus. That Pakistan provoked the 1965 war is well known, despite its denial. And fresh evidence, if needed, is provided by General Muhammed Musa, who was Pakistan's Chief of Army Staff in 1965. In his book: *My Version*, he says that he opposed "more than a dozen of times" the launching of this raid by armed guerillas on Kashmir that started the war. He calls the sending of infiltrators into Kashmir a "clandestine war".

It was in 1965, Ayub Khan, creator of Pakistan's first military regime, sent thousands of troops and infiltrators into Kashmir, certain in his conviction that the Muslims of Kashmir would rise in a spontaneous insurrection and Kashmir would slip out of India's grip. At this time we witnessed the steadfastness of Kashmiri Muslim Indians, who exhibited loyalty and patriotism of the highest order towards the country and demolished Pakistan's hope to win over

Muslim Indians to her side on religious ground. How could a country which does not even hold elections expect to make a favourable impression on any community which has known the power of the vote? Whatever be the grievances of Kashmiris against New Delhi they have no liking for Pakistan's ideals. Air Marshal Asghar Khan, who is no friend of India, realises this and says in his book : *Generals in Politics*, that "with military rule at intervals having become a regular feature of life in Pakistan, the urge for the Kashmiris to want to join Pakistan must have been considerably reduced, for it has now very little to offer." The Pakistani infiltrators were forced back, and they had to take back with them their dream of separating Kashmir from India. Within the next five years the eastern wing of Pakistan revolted and in 1971 India crushed the Pakistan army in the Bangladesh war. The same year East Pakistan seceded from Pakistan and formed into a separate State of Bangladesh.

The Kashmir issue, whether in the shape of a border incident, infiltration of Pakistanis or a debate in the U.N. Security Council, has repercussions on Muslim life within India. For example, speaking in the Lok Sabha on April 3, 1964 on a non-official resolution, in connection with widespread communal riots in Rourkela in Orissa, Jamshedpur in Bihar and Calcutta at that time, Lal Bahadur Shastri, the then Union Minister without portfolio, stated that : "There was no doubt that Pakistan had tried, specially during recent months to incite disorder and trouble in different parts of the country. The purpose was to find some excuse for telling the U.N. Security Council that Muslims were not safe in India and the situation was such as to warrant the world body's intervention."³

Sheikh Abdullah, Chief Minister, Jammu and Kashmir, in a luncheon meeting at the Press Club of India, New Delhi on September 1, 1980 confirmed that foreign money was being used to "foment trouble" not only in Kashmir but in other parts of the country as well. He, however, did not want to openly identify them and when pressed to do so he said, "you know them already". He said it would not be unlikely if Pakistan was also helping the Jamaat. It is no longer a

secret that the Imam of the Grand Mosque of Mecca recently visited Srinagar and stayed with some Jamaat leaders.

More and more Pakistani nationals have been found staying in sensitive towns of Uttar Pradesh even several months after the expiry of their visas, and this strengthened the doubt of involvement of foreign elements in the riots that occurred frequently. President Zia of Pakistan took an unusual interest in the riots to turn them to his advantage and this gives weight to the suspicion that his government provided inspiration to the rioters. Prime Minister, Indira Gandhi, first voiced India's criticism of Pakistan while talking to the Japanese Foreign Minister Ito in New Delhi on August 30, 1980. It came a day after she spoke in a meeting of the Congress Working Committee for the first time that some foreign forces were behind the riots in India. It was around this time that the ambassador of Pakistan in New Delhi was summoned by the External Affairs Ministry and a note was handed over to him. It was alleged that the note strongly expressed India's concern at the way Pakistan Government was exploiting the riots by holding meetings and permitting its controlled press to call the riots "massacre" and "genocide".

Pakistani nationals who come to India on a short visit become Indian nationals and stay here for an indefinite period without being detected. If a Pakistani National wants to acquire the status of a permanent resident of India, he first tries to extend his stay here on one pretext or another. If he can stay for two or three years, he gets a ration card and also the status of a voter. Armed with the ration card and the voting rights, he claims fullfledged citizenship. Naturally, he cannot achieve all this without the help from corrupt officials and influential local politicians.

What went unnoticed by the national dailies which had sent out correspondents and photographers to cover the Moradabad riots was the detention at Moradabad of about 30 Muslims from countries like Australia and Egypt on August 20 when the curfew was relaxed for the first time. They were trying to board a train to go out of the city. The police brought them to the police station and interrogated them. They were allowed to go only after the intelligence authorities in Delhi were tipped of to check their antecedents.

India took strong exception to the reported statement by the Pakistani President, General Zia-ul-Haq, alleging that "100 million Muslims in India feel so insecure that they are afraid to disclose their identities." The Foreign Office was concerned over the "propagandistic undertones" of the allegation made by the General Zia two days ago while addressing social workers in Karachi. The Pakistani General's allegations were of a piece with the strident campaign which Pakistani leaders and the Press have mounted lately accusing India of carrying on a campaign of genocide against Muslims.⁴

President General Zia's statements also reflects an inherent contradiction in the Pakistani situation today. Pakistan was created for Indian Muslims. But instead of uniting in one geographical compound, Indian Muslims split into three countries, with, ironically, the "flagbearer", Pakistan, now holding the least number of Muslims among the three. It becomes necessary for Pakistani leaders to invent a picture in which Indian Muslims are oppressed because it is difficult for the Pakistani President to digest the sight of Indian Muslims with democratic and human rights which Pakistani nationals do not possess.

In Pakistan's National Assembly, the loss of life and property suffered by the Muslims in Ahmedabad was discussed. Pakistan's Foreign Minister of State, Zaim Noorani, had referred to it while expressing the hope that the Indian Government would take "appropriate and effective measures" to safeguard the rights of the minorities including Indian Muslims in Gujarat and elsewhere. It is indeed strange that Noorani should talk of human rights when the people of Pakistan live under the threat of the lash and hundreds of political prisoners are languishing in jail without trial. Pakistan has no right to talk of human rights when it has not accepted the modern concept of nationhood which does not differentiate between man and man on the basis of religion. A theocratic set-up cannot appreciate the difficulties of a poor, pluralistic society in remaining secular and democratic. Fortunately, most Indians are tolerant. Not long ago, Syed Hasan, a former judge and President of the Lahore Bar Association, was in Delhi after visiting Mathura and Varanasi. He said that he was amazed at the level of communal tole-

rance in India and spoke of the frequent sight of temples and mosques sharing the same wall. "In our country, we would have demolished the temples long ago" he said. It is the troubled conscience of the rulers of Pakistan that causes them to express "sympathy" for Indian Muslims.⁵

Akbar S. Ahmad, a Pakistani scholar and civil servant, after a recent visit to India says that the Muslims of India (as Girilal Jain, Editor, the Times of India had noted) are neither orphans nor in search of protection. Slowly there are signs of their becoming viable; for the problem of the Muslims in India is not isolated. It is inextricably tied with that of the larger community. The agony of the Muslims is in a sense a shared agony with the Hindus. The two are not isolated. And because they share it they must confront it together. Only then will the Andalus syndrome be dispelled for the Muslims and permanent harmony in the community be possible.⁶

Most significantly during the communal riots in Bhiwandi and Bombay in May 1984 it was alleged that more than one lakh Pakistani Muslims were overstaying in Bombay alone—much beyond the expiry dates mentioned in their passports. There was failure on the part of the police in checking and sending back to that country the overstaying Pakistani Muslim nationals. The overstaying Pakistani nationals were said to be hiding not only in Bombay's Muslim localities in central Bombay but also in the Muslim pockets in Bhiwandi, Thane, Kalyan, Parbhani which had witnessed the orgy of communal riots. It was also alleged that the overstaying Pakistani Muslim nationals had given their support to the rioters.⁷

Did we know that some Muslim youths who were caught unfurling green flags (symbolic of Pakistani green flags) on telegraph posts, rooftops and trees throughout the town and got beaten up by Hindu youths from the locality? The Bhiwandi communal riots in 1984 was preceded by the war of flags. The Shiva Sena had been hoisting its saffron and ochre flags all over the town for quite some time to celebrate the Shivaji birth anniversary on May 3. To counter the proliferation of the Shiv Sena saffron flags, green flags were sought to be hoisted on May 16, on the occasion of Shab-e-Barat, by

replacing the saffron flags. That set off the spark exploding the tension into a communal riot.⁸

There has been large-scale illegal immigration and infiltration of Pakistani Muslims into the border States of North-eastern region, Gujarat, Maharashtra, particularly Bombay, Punjab, Jammu and Kashmir and Rajasthan, besides from Bangladesh. The influx of thousands of Pakistani nationals which has been continuing over the years has not only become major security threat but it also threatens to upset the demographic balance in those States since many of the infiltrators received support from the communal Muslim organisations and powerful politicians who helped them to settle down. The concentration of Muslims in certain areas along the border has also aggravated communal disharmony. We have already discussed, in a separate chapter the growth of Muslim population in India by adoption of various methods including their refusal to give up polygamy, reluctance to adopt family planning and birth control, and mass conversions; there has been talk of another partition if the situation so demands.

If one were to sum up Indo-Pakistani relations in one word one would utter "distrust"—distrust about motives and policies, distrust about almost everything; Pakistan's leaders say something to the Indian media, something else to their own media and quite something different to other foreign media, meant for international consumption.

Pakistan's encouragement, both direct and indirect, to the violent activities of the extremists in Punjab has been proved beyond dispute. Large-scale infiltration of Pakistani nationals into bordering States of India continues unabated. Communal riots and terrorist activities threaten the internal security of India. Apart from these the differences on issues like making nuclear bombs and stockpiling of sophisticated American fire-arms by Pakistan, which pose a threat to the security of this country remained as wide as before.

South Asia expert Dr. S.D. Muni on his return from a tour of Pakistan said that there was a common feeling there that Muslims in India are being treated badly. When he went to meet Karachi's *Qaid-e-Azam* University's International Study Division, he was surprised to see a huge chart on the wall

showing incidents of anti-Muslim riots since 1947 and the number of Muslims killed. In Islamabad's Institute of Regional Studies, Dr. Muni found that Major General (retd.) Akbar who was the head of the institute analysed every riot in India, on the basis of communalism.⁹

Pakistan government has a poor record of respecting human rights. It is, therefore, not surprising to find out only the Hindus but Christians, and even the co-religionists Shias and Ahmedias are treated as second class citizens.

The Christians numbering a solid seven million, constitute about 13 per cent of Pakistan's population. They are bitter about the taking over of church properties, nationalisation of Christian educational institutions and are agitated about the education of their children. There is no justification, they say, for the take-over of their educational institutions like Lahore's Forman Christian College, Rawalpindi's Gordon College, Sialkot's Murray College and various missionary schools which had produced Jinnah, Iqbal and Faiz. The take-over of church properties, they say, jeopardised the religious and cultural freedom of Pakistan's largest minority. Not only have the Muslims been appointed principals of these institutions but the Christian students are also being compelled to study Islamiyat as a compulsory subject.¹⁰

The Christians are subjected to the Islamic laws which prescribe penalties of death and lashes for four main crimes of adultery, perjury, theft and drinking. The law of evidence discriminates on the basis of sex. The Christians have demanded reservation in jobs and adequate representation for the community in key posts. Another demand of the Christians relates to Pakistan's electoral system. They believe that if the Jamaat Islami's suggestion of separate electorates is accepted it will negate the very basis of Pakistan. "You should not make us feel a separate entity. We are part and parcel of the Pakistani society. Why do you want to throw us out of the national mainstream" said Naeem Shakir, the secretary-general of the Pakistan United Christian Council. Shakir argued that there was no justification for subjecting the Christians to the Islamic laws.¹¹

Shias in Pakistan number between 15 and 20 per cent of the total population. They are being forced to submit to

Sunni practices, and as a result there had been in February and March 1983 prolonged Sunni-Shia riots in Karachi, where the Shias are numerous. Both sides used firearms and many persons were killed. Sunni zealots have been claiming that Pakistan should be officially declared not simply an Islamic Republic but a Sunni Islamic Republic. Iran constitutionally and officially is already a Shia Islamic Republic. Shias in Pakistan are not prepared to submit to Sunni practices. For example, two years ago they objected very strongly to *Zakat* being made compulsory, gheraoed the secretariat in Islamabad and forced a change in the ruling. That incident left bad blood. Shia-Sunni hostility is of long standing.¹²

What is more serious is that Maulvi-isation is setting one half of that population, the women, who are actually just over a half, against the male half. This is happening because in 1982 the maulvis and, what is more significant, the maulvi-minded, prepared a whole set of proposals which if adopted would send Pakistan's women back not merely to the early Islamic era but to the pre-Islamic one.¹³

These anti-feminist proposals are in accord with what seems to be the basic psychopathology of the Muslim male, which is that woman is the wicked temptress, that man is incapable of resisting her wiles and must be protected against them by anti-woman restrictions imposed by the State. And because women are considered the source of all evil, obviously they cannot be treated as the equals of virtuous, if weak-willed men. Hence, the Council of Islamic Ideology in Pakistan has considered, and issued questionnaires on, such issues as : Whether women should continue to have the right to vote (an empty formality in Pakistan anyway) or whether a female vote should be worth half a male vote; whether blood money or compensation paid to a female victim should be half that of a male; whether women should be banned from driving cars, as in Saudi Arabia; whether to set up an all-female university, as an obvious prelude to segregation in all higher education, also as in Saudi Arabia. In addition, the Social Reform Committee has suggested the death penalty for prostitution, but only for the woman and not for the male customer, and measures to restrict women from buying jewellery and wearing colourful clothes. The Ministry of

Education has ordered the wearing not just of a dupatta as a head-covering but of the chador as an all-enveloping overcoat.¹⁴

Only one other male chauvinist restriction has been actually implemented—a ban on women taking part in public sports, including the Asian Olympics and Pakistan's own national games, because sports clothes are skimpy, even though Pakistani sportswomen offered to play in trousers or salwars. This ban was vigorously protested by Pakistani Women's associations, who protested even more vigorously against the proposal to alter the law of evidence so as to make the witness of one man equivalent to that of two women. This is nothing less than a fudging, if not an open falsification of the Koranic pronouncement (sura two, verse 282) that 'when you contract a debt for a fixed term' the terms should be written down, and witnessed, by two men or by one man and two women. Pakistan's hand-picked Consultative Assembly or Majlis-e-Shura, in wholly unwarranted fashion, extended the application of this verse to all 'other matters' in which the Koran does not lay down the punishment. This recommendation is before President Zia, awaiting his signature to become a law. If he signs then all the other anti-feminist proposals will almost certainly be accepted, sooner or later.¹⁵

There is also a strong movement all over Pakistan for keeping women in purdah. Yet another in dignity is an order instructing female TV announcers to keep their heads covered. In fact a popular TV announcer was sacked for failing to comply with it. The mullahs propounded a ridiculous justification that if women remain bare-headed, they emit rays that harm men.¹⁶

An inevitable consequence of these harsh rules is the phenomenon of kidnapping. Even worse is the actual sale of girls by their parents, another common occurrence. Not only is crime against women in Pakistan on the rise, with an ever increasing number of rape incidents and wife-burning, but it is only the women who are the helpless targets of new laws. At present only 11 per cent of the total population of women in Pakistan is literate. Of the 65 lakh school-going children only 20 lakh are girls.¹⁷

When the women's organisations took out a peaceful procession in Lahore merely to present a petition to the High Court against the change in the law of evidence they were lathi-charged by the police and 13 women were injured. This caused a considerable outcry. Left to himself President Zia is not inclined to adopt anti-feminist stand but he is being pressurised by the Maulvis, who wield great influence in villages and smaller towns. Pakistan's women have formed into nine women's organisations called the Women's Action Forum to oppose the move of Zia.¹⁸

Ahmedias (also called Qadians, as most of them were once living in Qadian near Gurdaspur, Punjab) who claim to be Islamic, have been declared non-Islamic by Pakistan government. What has hurt them most is the government's directive that the *Kalima* be erased from the mosques of the Ahmedias. Apparently, the witch-hunt of the Ahmedias has increased. The Bhutto government in 1974 had amended the Constitution to declare all Ahmedias non-Muslims, but the amendment was never implemented. Then General Zia, through a presidential ordinance on 26 April 1984, prohibited the Ahmedias from calling themselves Muslims or their places of worship "mosques". Their priests were also forbidden from calling the faithful for prayers through the *Azan*.¹⁹

Embittered Ahmedias resorted to wearing *Kalima* badges and the authorities began arresting those who displayed the badges. *Dawn*, an English daily, reported in its 2 February 1985 issue that more than 100 Ahmedias had been arrested in various districts of Punjab. Again, on 23 February, the same newspaper reported that 36 Ahmedias were arrested for displaying the *Kalima* badges. How does the *Kalima-La ila lil Allah, Mohammad Rasool Allah* which means, "There is no God except Allah and Mohammad is His Prophet"—become in any way objectionable if it appears in the places of worship of the Ahmedias? It is strange that anyone should be punished for accepting the finality of Prophet Mohammed and that too in a country claiming to be Islamic.²⁰

Numbering around four million, out of about 10 million Ahmedias settled all over the world, live mostly in Pakistan's Punjab. Now about 30,000 Ahmedias live in India. About 1,500 from amongst them live peacefully with Hindus and

Sikhs in Qadian, about 70 Km from Amritsar in Gurdaspur district, which has been the headquarters of Ahmedias since 1891. Some of the leading Ahmedias had brought glory to Pakistan and among them Chaudhari Zafarullah Khan, once Pakistan's foreign minister; Dr. Abdus Salan, the Nobel prize winner and Mirza Muzaffar Ahmed, a great scientist can be mentioned.²¹

Ahmedia was a movement in Islam founded by Hazrat Niza Ghulam Ahmed of Qadian in "obedience to the divine command." He claimed to be the promised reformer not only for Muslims but "as the embodiment of prophecies about a grand reformer foretold in the religious books of the world." He exhorted mankind to hold in equal reverence and esteem of all spiritual reformers irrespective of religions and the place of birth. He was succeeded by other Caliphs, namely Haimmaulvi Nooruddin (1906-14) and Mirza Bashiruddin Ahmed (1914-65). Mirza Nasim Ahmed died in Pakistan in 1982 and present Caliph Mirza Tahir Ahmed is based in Pakistan.

Mashar Ali Khan, a distinguished Pakistani journalist, has taken up the case of the Ahmedias and has demanded an end to their persecution on the ground of religion. How can a law stop a person from calling himself a Muslim? It is a question of faith and no constitutional amendment or presidential ordinance can affect it. The Pakistan government may call the Ahmedias non-Muslims, but if they are firm in following the tenets of Islam, no one can take away this right from them.²²

It is not particularly difficult to establish the complicity of Pakistan in the conspiracy to destabilise India; nor is it beyond comprehension as to why it should be doing so. Ironically, Pakistan has played no small part in inciting communal violence in India and then internationalising communal riots in the Pakistani and foreign press highlighting that the life and property of Muslims in India are insecure. Organised attempts to contact and encourage certain Sikh leaders and groups were initiated by Pakistan in 1965; the object was to create a wedge between the Sikhs and others by developing a sense of grievance and alienation in the Indian society. Pakistan cannot forget the part played by India for its dimemberment in 1971

and it has, therefore, been encouraging the Khalistan movement.

The heavy sophisticated weapons, bearing Pakistani markings found inside the Golden Temple complex ; the Sikh extremists receiving their training under Pakistani army officers in several camps set up in Pakistan ; the hijacking of Indian aircrafts to Lahore and Pakistan's refusal to extradite the pro-Khalistani hijackers to India ; the presence of at least two circumcised Sikh Nihangs among those killed within the Golden Temple during the Operation Bluestar ; and hundreds of Sikh extremists escaping to Pakistan after Operation Bluestar raise strong suspicion on the involvement of Pakistan with a view to alienate Sikhs from Hindus, create unrest in the prosperous border State and delink Punjab from India. To prevent large-scale infiltration of Pakistani nationals into Punjab, the latter was declared a restricted area under the order issued on June 8, 1984 on the eve of the Operation Bluestar. The Punjab Government in December 1984 extended the Foreigners (Restricted Area) Order banning entry of foreign nationals into the State. Under the order, no foreigner was allowed to enter into or remain in the State without a valid permit issued by a competent authority.

The AISSF and the United Akali Dal headed by Joginder Singh, it was reported, established links with Jatha Bhindranwale, the AISSF, the Akali Youth Federation and Babar Khalsa operating from Pakistan. The Jammu and Kashmir police said that following their interrogation one Mohammad Sharif alias Sartaj, who works for a publishing house in Jama Masjid, Delhi was arrested. Sartaj has links with the Jamaat-e-Islami of Kashmir and runs an Urdu weekly *Rahi Manzil*. He is believed to be a member of the "Saffron Tigers"—an extremist organisation formed soon after Operation Bluestar and its members drawn from the AISSF. They always moved in the company of young women to avoid suspicion and gain respectability. It was alleged that one of the members of the "Saffron Tigers" was assigned the task of hijacking an Indian Airlines plane from Jammu or Srinagar airport on September 25, the day of polling in Punjab. This plan, it was alleged, had the approval of Pakistan authorities who had promised the hijacker permission to land in Pakistan and supply pistol in

lunch boxes to enable him to proceed onwards as the aircraft would not be allowed to stay in Pakistan.

The International Islamic Permanent Tribunal of Lahore headed by Abdel Majid Turab Zamani is described in one report as "a co-ordinating centre for radical Muslim Khalistani operations into the sub-continent." Zaman had stressed the need for "convergence between Indian Muslims and Sikhs for destroying the Indian nation State." The London branch of this Tribunal is managed by Siddiqui.

It was reported that the Singh Sabha Gurdwara on Havelock Road, London occupies the importance of Harmandir Sahib outside India. During the last few years no member of the Indian High Commission has been allowed to enter into this gurdwara. On the other hand, Pakistani officials have had free access to this gurdwara. Surprisingly, some Pakistani ministers had been honoured with *saropas* in this gurdwara. It was also reported that this gurdwara alone had contributed £ 100,000 to Bhindranwale.

Des Pardes, a Punjabi weekly started about twenty years ago, and now having a circulation of 10,000, has emerged as an important vehicle of Pakistani propaganda against India. Similarly, the Urdu daily *Watan*, quite popular among the Sikhs in the United Kingdom, was started in early 1984 by the late Chaudhari Zahur Illahi, a former member of General Zia's cabinet, mainly to promote the cause of Khalistan.

Al Nusrat, a Frankfurt-based Pakistani publication is reported to have been publishing regular articles supporting Khalistan. Finances for *Al Nusrat* are apparently derived from the Islamic Council of Europe led by London-based Moazzan Ali, Pakistani member of the Jamaat-e-Islami.

The Indian Muslim Federation of United Kingdom, groomed to hate and defame India, in their conferences, held periodically, keep on criticising the Government of India demanding security to the life and property of Muslims in India. There is hardly any international Muslim Conference where the Pakistani representatives do not raise the issue of the persecution of Muslims in India.

The year 1971 was a watershed for the Muslims of the sub-continent. After the formation of Bangladesh which saddened many a Muslim in India, the community realised that

they could not look up to a truncated Pakistan for any kind of succour; whatever illusions remained among the Indian Muslims about Pakistan were virtually shattered. The subsequent years witnessed them seeking rights and opportunities and getting them in an ever increasing manner but they have yet to join the mainstream of the Indian national life. While secular Muslims, particularly those few, devoted themselves to the welfare and progress of the country but the bulk of the community tilted towards Islamic brotherhood and avidly gave moral support to Pakistan. So we have these two distinct streams among Indian Muslims today.

The hostile relationship between India and Pakistan during the last 38 years has served to diminish both countries jointly and severally. But the partition having become a reality cannot be reversed. It is in everybody's interest to stabilise and consolidate the political arrangement that emerged in 1947. And the secular polity of India is central to that objective. If India had gone the way of Pakistan in 1947 and turned its back on secularism, Pakistan would have collapsed because Pakistan could not have survived the impact of total transfer of the Muslim population from India. The bonanza of evacuee assets left behind in that country by the forced exodus of the comparatively well-off Hindus and Sikhs would not have sufficed to meet the strains of total migration of Muslims from India.

As for India, the brutal excesses without which there was no way of forcing all the Muslims out could not but have dehumanised Indian society to an extent that all the moral, human, social and ethical values integral to a civilised polity would have become extinct. Pakistan has been running down Indian secularism since the partition of the country and has served to promote among Muslims in India the emotion and conviction that secularism is a sham. The *Radiance* weekly, a spokesman of the Jamaat-e-Islami said: secularism is a sham because it provides a cover for the lack of social justice for the minorities.

One need only consider what happened to the minorities (including the co-religionist minorities) and their condition in social, economic and political terms in Pakistan and Bangladesh; compare their life models with the reality in

India, the failures and lapses notwithstanding. Lack of catholicity coupled with fundamentalism of bigots is likely to revive the atmosphere of the pre-partition days—it was this very mental attitude that led to the partition of the country. The vicious circle has certainly not yet stopped spinning. Given the external situation constituted by the triangle of Hindus, Pakistan and past history, Indian Muslims are unwilling or unable to cut their tie with Pakistan.

Wilfred Cantwell Smith said :

So long as the Indian Muslims think of themselves, and by their behaviour and attitudes allow both Pakistani Muslims and Indian Hindus to think of them, not as Indian Muslims but as Pakistani Muslim expatriates, so long will their position be bleak. The Muslim community in India stands alone, must solve its own problems—including fundamental problems of theology, law and morals in collaboration with those of other forms of faith.²³

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CHAPTER 6

CHALLENGES TO A NATION'S UNITY

The Republic of India established in 1950 has been the home of Hindus, Buddhists, Jains, Sikhs, Christians, Zoroastrians, Jews and Muslims living together under the protection of a secular Constitution which guarantees, by law, the absolute equality of all faiths. The Constitution, in accord with our age-old tradition of tolerance, allows every citizen to *profess*, to *practise*, and to *preach* his faith. Hindus should recall how they have welcomed Jews, Christians, Parsees and Muslims and helped them to establish themselves here. India is as much their land as the land of Hindus. And the heritage of India belongs as much to them as to Hindus. Both geography and history have placed it in a strategic position; inevitably it has to be the confluence of many races, many cultures and many beliefs.

The basis of India's unity has never been religion, least of all Hindu religion. This is not to pass any judgment on those who come under the umbrella term "Hindu", but only to point to the fact that Hinduism as such cannot be a uniting national force. Hinduism is a conglomeration of different types of beliefs, theistic and atheistic, and practices, many of which are at variance with one another. Notwithstanding the facts that most of the Muslims are Hindu converts, that the Hindu converts frequently turned to Hindu gods in cases of trouble and sickness, presence or dead or death and that common saints—Hindu, respected by Muslims and Muslim, respected by Hindus are a unique feature of this land, there were certain basic ground rules on which Hindu assimilation was based and which the Muslim broke.

There may be a wide variety and diversity in the country,

of which rests upon ancient Indian culture, which integrates people speaking different languages and following different religions. Before the partition of the country the main damage to national unity was done by Muslim communalism. Pakistan was born in the midst of riots, bloodshed and hatred. The activities of Muslim fundamentalists and Pakistan behaviour have strikingly contributed to strain relations between Hindu and Muslims. Today, thirty-eight years after independence their vicious circle of maladjustment and separatism has certainly not stopped spinning; the ravages of communal violence continue even four decades after this new nation was dedicated at the altar of secularism.

To a large extent the fault can be placed at the door of Muslim politics in India. The word "secularism" means that there shall be no State religion and that the State shall treat all religions equally. What has normally been allowed to happen all over the country is that politics has continued to seek its selfish advantage under the cloak of religion while the powers that we have almost invariably chosen the path of compromise with so called religious demands. Meanwhile, secularism has lost its meaning in a milieu where religious personal law is a mockery of equality under law. The positive purpose of secularism is equal behaviour and equal facilities to the followers of all faiths. Our secular State enacts laws directing the Hindus to follow monogamy, making difficult for the husband to divorce his wife and providing alimony till her remarriage or death. At the same time it allows Indian Muslims to follow their personal law which gives them the right to take four wives, divorce their wives at will and are under no obligation to pay alimony if a wife is divorced. It also excludes them from the family planning and can have unlimited number of children. In the case of a Hindu, he has not only to abide by the family planning programme but he is not to have more than three children. All these are a distorted approach to secularism. The social abuses of Muslim personal law must be squarely faced and fought. Whether Hindu or Muslim, no part of our heritage is worth preserving if it endangers unity and progress. There must be a call for a ban on all exclusive communal organisations, except those pursuing purely spiritual aims.

Secularism cannot be achieved simply by inscribing it in our Constitution. For large masses of Hindus and Muslims even today religion determines conduct, life-style, even occupation. The divorce between religion and politics is not to be expected. Far from it. At election time every politician appeals to religious sentiments in some form or other. In other issues it plays an equally large role. Advocates and critics of cow-slaughter and processions playing music before a mosque may bandy religious arguments, but they fool no one about the crux of the matter, which is politics. Lost in the jungle of electoral politics the democratic forces, instead of guiding the masses towards enlightenment, are themselves succumbing to the deadly virus of communalism, turning secularism into an empty abstraction. Silence or indulgence towards separatist and exclusive trends must be abandoned, even if that means a temporary set-back in the polls. The idea of separate schools for Muslims is a pernicious idea, preventing social intercourse between Hindus and Muslims at the formative stage of life.

There has been mushroom growth of communal organisations. Some of them, Muslim fundamentalist organisations, funded with foreign money, concentrated their campaign on issues such as Muslim personal law, family planning, Urdu, cow-slaughter, conversions, etc. They are against the participation of Muslims in the growth of secularism and nation's unity. The incidence of communal violence in the eighties in Bhiwandi, Bombay, Hyderabad, Ahmedabad, Srinagar, etc. and hoisting of green flags (symbolic of Pakistani flag) on tree-tops and over telephone and telegraph posts in some riot-affected areas is a most disturbing phenomenon. Anti-national activities instigated by the Jamaat-e-Islami in Jammu and Kashmir, desecration of Hindu temples in some places and the outbreak of a major fire in the premises of historic Dasnami Akhara shrine recently have caused serious concern to all.

The anti-national activities of Muslims which led to the division of Cyprus and eleven Muslim leaders, in Yugoslavia charged with conspiring to establish Muslim rule in Bosnia Herzegovina—one of the country's six republics are a recent evidence of their anti-national activity. It is time for Muslim leaders to sit together and consider whether the practice of polygamy, refusal to adopt family planning, conversion of

Hindus to Islam, emotional attachment to Urdu, keeping anti-Indian sentiment alive and instilling in their followers a sense of separate identity are the best way of serving the Indian Muslims' interests.

According to Asaf A.A. Fyzee, an internationally recognised authority on Islamic Jurisprudence, the Muslim personal law cannot be considered as Shariat in India because Islam is not the State religion; the judges are not Muslims; and there is no Caliph to enforce the Shariat. Even Pakistan and several Islamic countries have made polygamy and divorce difficult, if not impossible, and according to theologists, the Shariat law can only be applied in an Islamic Utopia—not in a secular State. Indian Muslims, therefore, should be mentally flexible enough to recast its ancient laws and social commandments in the light of new experiences and problems. It must be remembered that Islam is a doctrinal religion, and Islam, as generally practised, developed its way of life and ethos in countries in which Muslims were in a majority. It was developed as a religion of Muslims, by Muslims, for Muslims. It did not envisage or legislate for Muslims in a majority. Consequently, Muslims, who in their own interests opted to live in India must move in the mainstream of Indian life. Islamic laws must change to conform to the laws of the country.

The conflict between the modernists and conservatives is nothing new. One should see how little the anti-dowry laws have helped to eradicate that evil from Hindu society. Whenever there is any talk of reforming Muslim personal law or introducing a common Civil Code, fundamentalist Muslim leaders have opposed it, telling their followers that the Hindus are working to erase their religious identity. We have to look at the backwardness of Muslims in education and their poverty, to understand why several archaic customs survive.

Since the Muslim and the other personal laws do contain different, divergent and discriminatory provisions and they apply to different religious communities, should not all such discriminatory provisions stand invalidated under Article 15 of the Constitution on the ground of religion? Christians are no fairer towards their women. In Kerala, the local laws applicable to Christians there, discriminate against women terribly.

Their inheritance laws, too, are adverse to women. They get

hardly anything at all. It seems that religion is involved in the matter of dowry. It appears a part of the dowry goes to the Church and therefore the Church is interested in sustaining the dowry system. Christian women under the Indian Divorce Act are not entitled to divorce on grounds applicable to Hindus or even Muslims.

Did we know that although till now the Sikhs are guided by the laws applicable to the Hindus, the Akali Party has been contemplating to have a separate Sikh Personal Law just because they do not want to be known as Hindus? The brain of the proposal is Gurnam Singh Tir, an advocate, who expressed that the main concern of the proposed personal law is landed property that should remain intact; there should be no fragmentation like the Hindu Code Bill has done. Division of the land is at the crux of the proposal to disinherit women. Sikhism has given women equal status with men but the proposed Sikh personal law, according to Dr. Attar Singh, one of the foremost scholars of Sikhism, contains dangerous provisions which will not only place Sikh women at the mercy of the men in their lives without any guaranteed economic rights of their own and spending their lives proving that they are morally "good" women but at the same time could result in the division of the Sikh community along caste lines.

In a secular democracy the laws of the State must necessarily treat all men and women, irrespective of religious faith, alike. We cannot allow religion to interfere in matters purely secular. Article 25 of the Constitution makes it very clear that in regard to public health, order and morals, even religious matters can be controlled by the State. Shariat courts holding Muslim women guilty and inflicting punishments on them or a Muslim woman talaqed instantly, and thrown into the streets by her husband are cases contrary to secular laws where the *alibi* of religion can be disallowed. Enactment of a Common Civil Code that governs all communities would necessarily have to be one that does not violate any Islamic injunctions.

Instead of enactment of a Common Civil Code that is consistent with the Constitution's Directive Principles, the ruling Congress (I) Party, with a view to ensure bloc Muslim votes in future elections, presented before the Lok Sabha in February,

1986 THE MUSLIM WOMEN (PROTECTION OF RIGHTS

ON DIVORCE) BILL providing therein that the State Wakf Board would pay the maintenance of a divorced Muslim woman if she does not have any relatives or if they do not have enough means to pay the maintenance amount.

Several eminent Muslim scholars, jurists, artists and educationists including noted writer K. Ahmed Abbas, Orinthologist Salim Ali, Moonis Raza, Vice-Chancellor of Delhi University, Badr-ud-Din Tyabji, eminent lyric Shahryar, Muzaffar Ali, renowned Muslim actress, Shabana Azmi, R. Ali, Chairman of the Islamic Shariat Board, Daniel Latif and many others objected to the government proposal to exempt Muslims from the purview of Section 125 of the Criminal Procedure Code. R. Ali described the Bill as "un-Islamic", and demanded a debate on it be deferred in Parliament till it was circulated among the public and discussed threadbare. R. Ali said further that by stipulating that the Wakf Board should take care of a divorced Muslim woman if her relatives could not support her, the Bill would throw open the doors to bigamy and encourage men to treat marriage as a pestime. The Bill evoked sharp criticism in Kerala which has the largest percentage of Muslims in the country. P.P. Umer Koya, former education minister of Kerala said that the proposed legislation went against the Shariat by freeing men from any responsibility in providing maintenance to divorced wives. "It is unheard of in the history of Islam," he said. N.P. Mohammed, noted Malayalam writer, said that "the Prime Minister was leading a section of the people to a primitive tribal past." Referring to the Government claim that the Bill was drawn in consultation with "divines". professor K.A. Jaleel, former Vice-Chancellor, Calicut University, said that Islam did not recognise "divines, oracles or priests." The legislation would provide no relief to a divorced Muslim woman as there would be no one against whom she could file a suit for maintenance" he said.¹ Others have argued that instead of making irresponsible husband, who has enjoyed his wife over the years, responsible for the maintenance of his divorced wife, why should the Muslim community be responsible for the maintenance of divorced women, the number of which keeps on increasing, thanks to polygamy.

Hasan Suroor reports in the Statesman that liberal Muslims are in dilemma over the controversial Bill. They firmly believe

that the community should be liberated from the stranglehold of the orthodox clergy.²

Opinion of enlightened Muslims in Assam seems to be against the Bill. Educationists and social workers like Rezina Khatoon, lecturer of a college, Baharul Islam, MP (Congress-I) and a former judge of the Supreme Court have openly endorsed the Supreme Court Verdict in the Shah Bano case. On the other hand, some political leaders including Syed Ahmed Ali, a former minister of Assam has opposed the judgment in Shah Bano Case. Sheikh Chand Mohammad, a former Speaker of the State Assembly and an advocate of the High Court expressed that the Bill was unnecessary and undesirable. Abul Muhib Mazumdar MLA (Congress-I) and a former Law Minister and ex-Advocate General, Assam upholds the judgment of the Supreme Court.³

The consensus among Muslims and non-Muslim leaders and organisations in Karnataka is that the centre is taking hasty measures to appease religious fundamentalists. Feeling worried over the Janata Party's silence as also over one of its members of Parliament fully backing the Bill, Rural development and Panchayat Raj Minister Abdul Nazir Sab asserted that the Bill would do more harm to the Muslim women than any good. He was totally opposed to the idea of making Wakf maintained divorced Muslim women. Dr. Mumtaz Ali Khan, a social scientist said that the Bill provided for a political and not social solution.⁴

Neerja Chowdhury reports that many Wakf Boards are not as well off as they could be because of their involvement in a large number of legal cases, and because of the persistence of old rents. But their mismanagement and misuse of the fund at their command is the other side of the coin which cannot be ignored. Again, neither the Central Wakf Council nor the wakf section in the Government of India have information about how many wakfs have had their accounts audited, a function the Wakf Board are supposed to perform. The last study on the Wakf administration in India, done in 1978 by a scholar from Aligarh Muslim University, Dr. S. Khalid Rashid, revealed that the percentage of Wakfs which got their accounts audited was next to nil. Their number in Andhra Pradesh was only seven out of 38,000

wakfs; in Delhi, it was 80 out of 3,624; in Punjab 36 out of 38,000. The income from the 100,000 wakfs in the country, which were worth Rs 150 crores then was only Rs 5 crores which according to him, was low "due to bad investment and undeclared income." However, Dr. Rashid was most disturbed that the Boards, which had become "cesspools of corruption and nepotism," had "failed to play any significant role in the socio-economic resurrection of the community." That widows and the handicapped receive only Rs 30 per month is one indication that the picture has not changed.⁵

Neerja Chowdhury says that it is difficult to ascertain whether or not the Wakf Boards will be able to take on the responsibility of giving adequate maintenance to destitute divorcees, for functioning of Wakf Boards in shrouded in mystery. From all accounts, the Wakf Boards have not paid any attention to this group of the needy, and where a minuscule number has been helped, "not even 20 women" in Delhi, the amount given is a pittance of Rs 30 a month. This amount was "recently raised" from Rs 25 to Rs 30. The divorcees are among 600-odd others, widows and handicapped, who receive this princely sum from the Delhi Wakf Board which receives Rs. 9 lakhs per year as rent from its own properties, which number 1,900 in all. And only Rs. 63,000 from the "mutawallis" or managers of the various wakfs in the city under the Board's jurisdiction which are supposed to pay the Wakf Board 6 per cent of their annual income. The rest was raised through donations.⁶

Opposing the Bill, former Supreme Court Judge, V.R. Krishna Iyer in the concluding portion of his letter dated 28 February 1986 addressed to the Prime Minister said :⁷

The Bill to kill the Shah Bano decision of the Supreme Court is the unfortunate political product of a creative genius for multi-dimensional injustice. The Bill is an injustice to our Republic's 'secular principle'; it is an injustice to women's basic rights and, therefore violative of human rights; it is an injustice to the egalitarian policy in our Constitution in Articles 14, 21 and 25; it is a vindictive injustice to Muslim women seeking the

CHALLENGES TO A NATION'S UNITY

soul of the State's humanism to obscurantist fundamentalists; it is an injustice to the holy Koran which insists on payment of maintenance of divorced women in distress; it is an injustice to the twenty-first century because it throws us back to the sixth century to buy Islamic votes through the noisy illusion of electoral support of fundamentalists whose hold on the liberal Muslim intelligensia and the suffering masses of women is marginal; it is an ultra vires injustice to the law of Wakfs because Wakfs are not trusts to look after privatised wrongs inflicted by irresponsible *talaqs*; it is an injustice to family integrity because it is fraught with potential for litigation between close relatives. It is an injustice to pragmatic working of the law because, functionally speaking, the provisions lead the destitute to several cases in search of a pittance; it is an injustice to national stability, because the secular credibility of the government will be a casualty.

Just after the government introduced the Bill in the Lok Sabha, the Minister of State for Energy, Arif Mohammed Khan, walked out of the House and resigned from the Council of Ministers. He sent a long explanatory note to the Prime Minister regretting that while the government claimed to have consulted "leaders of the Muslim Community", it had given credence to the views of only the conservatives and ignored the progressive and secular opinion within the community. He also challenged the government's definition of Muslim "leaders" maintaining that no effort had been taken to obtain a cross-section of views on this very important matter.

The proposed legislation on the rights of Muslim women, violates every cannon of moral and social justice. Not merely the mullahs—the custodians of blind orthodoxy, but even many of the educated Muslim leaders, including several M.Ps., seem to have a vested interest in the social and educational backwardness of the Muslim community. Instead of realising that reform, facilitating their integration in a non-sectarian national ethos, would enable them to compete with the Hindus on common terms, they retreat further into

isolation in the name of their distinctive religious identity.

Zoya Hassan, associate professor at the Jawaharlal Nehru University and convenor of the Committee for the Protection of Rights of Muslim Women argued, "Under the guise of freedom of religion and personal law, Muslim women are being denied human and constitutional rights." Baharul Islam, M.P. (Congress-I) and former judge of the Supreme Court said, "If the Bill is passed, divorces among Muslims will shoot up." Worse, Muslim women will find it even more difficult to get sustenance since the responsibility does not devolve on one person, unlike in section 125 Cr.P.C. "The Bill has raised too many shackles and created too many misapprehensions" observed Ajay Kumar in India Today.⁸

Why was the Bill brought forward and passed at all? Danial Latifi, the senior Supreme Court advocate who was the counsel for Shah Bano asks—was it simply to segregate the Muslim women from others? Was it to insult the Supreme Court? Was it to show up Islam in a bad light? Was it just male chauvinism to torture and harass the most oppressed and unfortunate sections of society? Was it to drive the Muslim intelligentsia out of the fold of Islam and thus to weaken the Muslim community? Latifi says that all one can say at present is that some Machiavelli seems to have master-minded this entire operation. That master-mind is not a friend of Islam, of the Muslims or of the Muslim women. Still less is he a friend of the Republic of India. The crude and arbitrary provisions of the Bill (now become Act VIII of 1986) distort the Muslim Law and mar its harmony and proportions evolved over the centuries by the labour of jurists. This hasty and crude legislation, continues Latifi, will cause people to turn away from Islam. For one thing it will create trouble between husbands and wives.⁹

Surprisingly the Government has defended the Bill saying that it will provide protection to Muslim women more than what was guaranteed in sections 125 and 127 Cr.P.C. If that is so, why not extend this Bill to women from other religions, including Hindus?

Muslim women constitute half the total population of Muslims in India. It is surprising that the Muslim women, who are directly affected by this Bill, were not consulted.

The Government also did not think it necessary, under pressure from the fundamentalist Muslim leaders, to study the various amendments that have been carried out in Muslim personal law in several Muslim countries before introducing the Bill. According to the information available, at least in nine countries, namely Egypt, Indonesia, Iraq, Libya, Qatar, Sudan, Tunisia, Turkey and Yemen, maintenance/pleasure allowance/compensation is provided to a divorced wife.

Did we know that Muslim women from nine countries namely Algeria, Bangladesh, Canada, India, Malaysia, Pakistan, the Philippines, Tunisia and Sri Lanka met in Lahore on March 8, 1986 at a four-day international seminar to discuss the question of "Liberation of women in Relation to Islam"? At this seminar the delegates jointly condemned the Muslim women (Protection of Rights on Divorce) Bill exempting Muslims from section 125 of the Criminal Procedure Code and urged the Indian Parliament to "reject" it.¹⁰

Commenting on the Bill, the Statesman dated 20 February, 1986 in its editorial titled "A Question of Votes" said :

At one level the enactment that is now reportedly under consideration will deal a serious blow to the judiciary, and to the concept of equality before the law, by arbitrarily curtailing the jurisdiction of the Courts. At another, it will promote sectarianism in a society that is already riddled with far too many divisions, encourage each community to retreat into a psychologically walled ghetto, and damage the prospect of a national identity taking precedence over more narrow labels. If one group is to be so excluded, the others will claim the same privilege—or disqualification and that might be the beginning of the end of many other common norms and institutions as well.

Again commenting on payment of stipends to divorced Muslim women by Wakf Boards the Statesman, dated March 20, 1986 in its editorial titled "Subsidizing Divorce" said :

The fact that most of the Wakf Boards are bankrupt and that mismanagement of Wakf is so well known that it is amazing that the framers of the Muslim Women (Protection

of Rights on Divorce) Bill should have thought of entrusting an important social responsibility with the Wakf Boards. In 1984-85 alone, the U.P. Government doled out Rs. 13 lakhs to the State Sunni Wakf Board and Rs. 13 lakhs to its Shia counterpart. It is reported that the Central Wakf Council set up in 1954 under the Wakf Act, receives an annual grant-in-aid of Rs 50 lakhs which it invests in urban property in order to generate incomes for Wakfs. All this suggests that once the Muslim women Bill becomes law, the financial responsibility for the maintenance of divorced women of the community will be of the Government or, in effect, the tax payer. The Central Wakf Council has already estimated that it will need about Rs. 50 crores a year to fulfil its new obligations.

It is not necessary to stretch one's imagination to visualise what may happen once vast amounts of public funds start flowing into its coffers. In its haste to appease a large pressure group, the Government has clearly not pondered the modalities of stipend disbursement to divorced Muslim women. Further, no thought has been given to how the amount of stipends is to be fixed and whether Wakf Boards, in effect, will sit in judgment over divorced women's financial needs. The example of countries where Islamic laws operate is of no help for such strange provisions exist in no other country. As a delegation from Iran recently explained in Delhi, Divorce laws there were altered after the Islamic Revolution to give divorced women 50 per cent share in their ex-husband's property all other acquisitions made since marriage. The Indian Bill, on the other hand, will not only subsidize divorce but may also lead to improper disbursement of that subsidy.

The new legislation could as well be the beginning of a second partition of India. Right now it may not be a physical and geographical partition but the ground-work for further dividing Muslims from the rest of the population has been laid and that too by our Parliament. The Congress (I) MPs in Parliament are already divided; a large number of MPs were not present in the Lok Sabha at the time of voting on

the Bill on May 5, 1986, notwithstanding the party whip. The gainer is not going to be the Congress (I) but the mullahs with their strong hold on the Muslim community which can be easily swayed by religious fanatics.

Prof. Mujib Rizvi of the Jamia Milia University in Delhi commenting after passing of the Bill in Parliament says that the new legislation can be dangerous since for the first time the Constitution of India will have a clause which will not govern Muslim women. This type of exception can lead to another type of exception which might be introduced by some non-secular party if it comes to power. Prof. Rizvi's fears are not groundless. If one step backward can be taken with the help of the ruling party's brute majority in Parliament what is there to prevent some more backward steps?¹¹ Sikhs are already clamouring for revision of Article, 25(2)(b) of the Constitution and for a separate Sikh Personal Law. Not merely Sikhs, some Hindu and Christian communal groups including tribals may also clamour for special safeguards and the party in power may be persuaded to yield to their pressures, for electoral reasons, as in the case of the new legislation passed recently in Parliament for Muslim divorced women. What is more, encouraged by their recent success in pressurising the Congress (I), Muslim mullahs and fundamentalist groups might demand more concessions including separate electorates at every level of the democratic process.

Commenting on the Parliament's voting of the Bill the Statesman editorial says : "If M.Ps. are to be regarded as spokesmen of minority interests, we might as well dispense with the pretence of a uniform Indian label and amend the Representation of the People Act to provide for separate electorates." The Statesman concluded by saying : "It bears reiteration that the Bill offends the basic principles of equality in the eyes of the law and of woman's emancipation, making a mockery of Mr. Asoke Sen's entirely fanciful suggestion that the Government is still working towards evolving a uniform civil code. It has also to be stressed that such a sectarian measure is bound to revive the Sikh demand for revision of Article 25(2)(b) of the Constitution and may well encourage a host of other demands emphasising individual identities at the

cost of the national ideal The double speak employed in moving and justifying the Bill, and the ruthlessness with which it was forced through the Lok Sabha do not augur well for the future conduct of a regime that started on such a promising note."¹² If Muslim fundamentalists have won today can Sikh fundamentalists be far behind ?

Meanwhile, what would happen if the legislation is taken to the Supreme Court where it is invalidated as discriminatory ? Now it remains to be seen whether the Muslim fundamentalists are going to demand further concessions before voting for the Congress (I); because apparently, the passage of the Bill by Parliament has not modified the Muslims, particularly the fundamentalists, who do not feel obliged by the ruling party's gesture in going out of its way to push through the Bill.

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